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W.P.No.4210 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 05.03.2024

Order delivered on : 03.06.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.4210 of 2021

Geetha Sreerag @ Rosaline Geetha
W/o.Sreerag

... Petitioner

-Vs-

The Regional Passport Officer,
Rayala Towers, No.2 and 3,
IV Floor, No.158, Anna Salai,
Chennai 600 002.

... Respondents

PRAYER : Writ Petition filed under Article 227 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records related to the impugned letter Ref.No.FCL/310584159/20 dated 31.12.2020 and quash the same and direct the respondent to accept the surrender of Indian Passport of the petitioner bearing no.L8013248.

For Petitioner : Mr.Niranjana S.Kumar

For Respondent : Mr.S.V.Jayakumar



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ORDER

This Writ Petition is filed to quash the impugned letter of the respondent dated 31.12.2020, whereby the application of the petitioner for surrender of the Indian Passport was closed. She seeks further direction to accept her application for surrender of Indian Passport.

2. (i) It is averred in the writ petition that the petitioner was born in Puducherry during the year 1978 and she was living with her parents Puducherry till 2002. In the year 2002, she left the company of her parents and married one Mr.Sreerag, at Kerala. Out of wedlock, they begotten their female child on 03.04.2005. After marriage, the petitioner applied for issuance of Passport with the Regional Passport Office at Cochin, Kerala and obtained Passport bearing No.E3581215 on 31.10.2002. Thereafter on expiry of the said passport in the year 2014, the petitioner applied for fresh passport and obtained the same on 18.03.2014.

(ii) It is further contended by the petitioner that during the year 2018, the petitioner reunited with her parents. Thereafter only she came to



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know about the fact that her parents have obtained French Nationality Certificate. Therefore, she applied for getting French Passport and also obtained the same on 31.07.2018. Immediately, after getting the French Passport, the petitioner has submitted an application for surrender of her Indian Passport with the respondent herein on 08.10.2018. The respondent has sought for explanation for surrendering the Indian Passport. The petitioner had also submitted her explanation and thereafter, no response has been received from the respondent. Meanwhile, the respondent herein had lodged a complaint with the Central Crime Branch Police, Chennai against the petitioner and the application of the petitioner was also closed vide impugned letter dated 31.12.2020. Against which, the petitioner has filed this writ petition.

3. The learned counsel appearing for the petitioner submitted that before closing the petitioner's application, she has not been given any opportunity of personal hearing to explain the reason for surrendering her Indian passport. The concerned Regional Passport Officer has also lodged complaint mechanically and without enquiring the complaint properly, the Police have registered the case in a mechanical manner. In the FIR also, there is



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clear mention by the respondent as to the submission of explanation by the petitioner.

5. The learned counsel for the respondent would submit that after scrutiny of the surrender application, it was found that the petitioner has obtained French Nationality on 07.01.1999 and later on, she obtained Indian passports on 31.10.2002 and on expiry of the said passport, the petitioner again applied for fresh passport and obtained the same on 18.03.2014. The petitioner was granted French Nationality when she was aged about 20 years. She has obtained Indian passports after several years by suppressing her French Nationality.

6. It is further submitted by the learned counsel for the respondent that though it is claimed by the petitioner that she has given explanation for surrendering Indian Passport, since it was not satisfactory, the respondent had requested the Police to investigate the matter by registering a case against her. In the investigation, the petitioner has physically appeared before the competent authority on 08.10.2018 and she was heard in person and her written submissions were also considered by the Passport Issuing Authority. Therefore, the claim of the petitioner that she has not been given any opportunity by the



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respondent is false. The respondent has fully complied with the principles of natural justice.

7. Heard both sides and also perused the materials available on record.

8. The petitioner is a French National. Her parents got the French National Certificate for her during 1999, when she was about 20 years of age. She parted with her parents during 2002 to marry one Mr. Sreerag of Kerala and lived there. She claims that she was not aware of her French Nationality obtained by her parents. During 2004, she applied before the Regional Passport Officer, Cochin and got an Indian Passport that was later renewed during 2014. During 2018, she reunited with her parents and she got to know of her French nationality. Upon knowing the same, she immediately applied and obtained a French Passport bearing No 18EF28754 on 31.07.2018. Immediately, upon obtaining the French Passport, she had approached the Regional Passport Officer, Chennai, in person with the application MASSC7071179318 dated 08.10.2018 to issue surrender certificate for her Indian Passport. After obtaining an explanation of the wrongful conduct whatsoever of the petitioner,



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the Regional Passport Officer chose to file an FIR with the CCB/CBCID, Egmore, Chennai for the offences under Sec 12 (1A) of the Passports Act, 1967. Thereafter, the impugned letter Ref No FCL/310584159/20 dated 31.12.2020 was issued by the Regional Passport Officer intimating the closure of the application and without issuing the surrender certificate.

9. The petitioner is aggrieved that Regional Passport Officer has erred in closing the application by passing the impugned letter without issuing the surrender certificate. The respondents, in their counter filed on 16th of February, 2024, have submitted that they had closed the application as they had no provision to keep the application for surrender pending more than 2 years. They expressed their willingness to reconsider the same in the event a fresh application is filed, subject to the orders of this court.

10. In my view, it is a weird position to take. The Passport Officer, being a senior officer of the Ministry of External Affairs, ought to be guided by the provisions of The Passports Act, 1967 for carrying out his duties. He cannot wait for the cover of a judicial order to exercise his duties. There is no doubt that there is a prima facie case against the Petitioner punishable under Section 12 (1A) (a) of the Indian Passports Act, 1967, provided there is conscious



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suppression by the petitioner, which is a subject matter of trial and rightly an FIR is filed. In the instant case, the surrender of passport being voluntary and all the materials available with the respondent were submitted by the Petitioner herself, Sec 10 (3) (a) of the Passport Act, 1967 is attracted and the Passport ought to be revoked by the respondent under the said provision. Once the Passport is liable to be revoked and when the same is held back in the possession of the Passport Authority, there is no reason the respondent can withhold the issue of the surrender certificate of the Petitioner or close the surrender application on technicalities. Therefore, the impugned letter Ref No FCL/310584159/20 dated 31.12.2020 of the respondent is liable to be quashed, accordingly, the same is quashed.

11. The Writ Petition is allowed. The petitioner is directed to issue the surrender certificate immediately, in any event within a period of four weeks from the date of receipt of a copy of this order.

12. While allowing the Writ Petition, it is observed that owing to the voluntary application and suo motto disclosure of the circumstances by the petitioner before the Passport Authority, the culpability of the petitioner in



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suppressing material information in obtaining the Indian Passport stands diluted. Further, the punishment for offence provided under Sec 12 (1A) can be as high as 5 years in jail or as low as a fine of Rs 10,000/-. Over 4 years have passed since the FIR is registered and no adverse report is brought on record by the respondent even in the counter filed during February, 2024. Therefore, for the ends of justice to meet, the benefit of doubt rests with the petitioner, unless any adverse finding of a grave nature is unearthed in the police investigation.

No costs.

03.06.2024

Index: Yes/No
Speaking/Non-speaking order
vsi

To

The Regional Passport Officer,
Rayala Towers, No.2 and 3,
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J.NISHA BANU, J.

vsi

Pre-delivery Order
in **W.P.No.4210 of 2021**

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