



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.02.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.4679 of 2024
& WMP.No.5106 of 2024

Gunasekaran

... Petitioner

VS

1.The Regional Passport Officer,
Regional Passport Office,
3, IV Floor, Old No.785, New No.158,
Anna Salai,
Chennai – 600 002.

2.State Rep by
The Inspector of Police,
Elavarasoonor Kottai Police Station,
Kallakurichi District

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned show cause notice passed by the 1st respondent vide SCN/317055393/2024 dated 13.02.2024 and quash the same and subsequently direct the 1st respondent to renew the passport pursuant to the petitioner's application dated 30.01.2024.



WEB COPY

W.P.No.4679 of



For Petitioners : Mr.A.Ashvathamam

For Respondents : Mr.M.Sathyan (R1)
Central Government Standing Counsel
Mr.R.Kishore Kumar (R2)
Government Advocate

ORDER

Mr.M.Sathyan, learned Central Government Standing Counsel accepts notice for R1/the Regional Passport Officer, Chennai and Mr.R.Kishore Kumar, learned Government Advocate accepts notice for R2/Inspector of Police, Elavarasoonor Kottai Police Station, Kallakurichi District. They are armed with instructions to enable final disposal of this Writ Petition, even at the stage of admission. Hence, by consent, the following order is passed.

2. The petitioner had applied for issuance of passport on 30.01.2024. There is an error on this account in paragraph 2 of the writ affidavit where he states he had sought 'renewal of passport', which is incorrect as the application is for issuance of passport for the first time. There is, admittedly, an FIR pending against him in Crime No.259 of 2022 on the file of R2 for offences under Sections 143 and 341 of IPC.

3. Mr.Kishore would state that no charge sheet has been filed till date. The impugned show cause notice has been issued referring to the adverse police verification report and calling for the attendance of the petitioner.



4. This Court sees nothing untoward in the issuance of the show cause notice, as it is indeed necessary for the first respondent to ascertain the particulars of the criminal case and thereafter take a view on the application for issuance of passport in light of the provisions of the Passport Act and other Circulars/orders.

5. Having said so, it is also necessary to draw attention to the settled position of law as per the judgment of the Hon'ble Supreme Court in *Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation* (Criminal Appeal No.1342 of 2017 dated 27.09.2021), orders passed by the First Bench of this Court in *Regional Passport Officer v. Samsudeen Mohamed Salih and another* (W.A.No.902 of 2023 dated 02.06.2023) and of the writ court in *Suresh V. Regional Passport Officer* (W.P.No.30019 of 2023 order dated 17.11.2023) and *Nedumaran Palaniappan V. Regional Passport Officer* (W.P.No.28448 of 2023 order dated 24.11.2023).

6. The aforesaid decisions would stand testimony to the position that the application for issuance of passport or for that matter renewal cannot be denied merely on the basis of a pending FIR or even a criminal case. In the latter instance, the respondents would have the added layer of protection of the accused having to obtain permission from the concerned Magistrate prior to



travel abroad. This, however normally, would not militate against the issue/re-issue of passport, despite pendency of FIR/criminal case.

7. In such circumstances, the challenge to show cause notice dated 13.02.2024 is rejected and the petitioner ought to have responded to the notice issued before the authority and put forth his case which he has not done, choosing instead to institute the present Writ Petition.

8. Hence, the petitioner is granted liberty to file a reply to the show cause notice. The petitioner will be heard, his reply considered in light of the observations made in this order, specifically the the settled position of law as adumbrated in paragraph 5, and passport issued/application disposed, in accordance with law, within a period of four (4) weeks from date of receipt of a copy of this order.

9. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

27.02.2024

Index : Yes/No

Speaking Order:Yes

Neutral Citation:Yes

sl



To

1.The Regional Passport Officer,
Regional Passport Office,
3, IV Floor, Old No.785, New No.158,
Anna Salai,
Chennai – 600 002.

2.State Rep by
The Inspector of Police,
Elavarasoonor Kottai Police Station,
Kallakurichi District



WEB COPY

W.P.No.4679 of



DR.ANITA SUMANTH, J.

sl

W.P.No.4679 of 2024
& WMP.No.5106 of 2024

27.02.2024