



WEB COPY



W.P.No.5539 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.03.2024

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.5539 of 2024
& WMP.Nos.6128 & 6131 of 2024

John Alosias Lazer

... Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office Coimbatore,
First Floor, Corporation Commercial Complex,
Opp. Thandumariamman Koil,
Avinashi Road,
Coimbatore & District – 641 018.

2.The Inspector of Police,
Karungalpalayam Police Station,
Erode 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 in respect of the impugned show cause notice dated 05.10.2023 issued by the 1st respondent and quash the same as arbitrary and illegal and consequently direct the 1st respondent to re-issue the passport of petitioner by considering petitioner representation dated 10.01.2024.

For Petitioners : Mr.J.Titus Enock



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For Respondents : Mr.R.Subramanian (R1)
Additional Central Government
Standing Counsel
Mr.Meganathan (R2)
Government Advocate

ORDER

Mr.Mr.R.Subramanian, learned Additional Central Government Standing Counsel accepts notice for R1 and Mr.Meganathan, learned Government Advocate accepts notice for R2. They are armed with instructions to enable final disposal of this Writ Petition, even at the stage of admission.

2. The petitioner was a holder of passport bearing No.K0410161 that had expired on 17.03.2023. He sought renewal before R1, Regional Passport Officer, Coimbatore and the passport has been renewed bearing No.Y7056822 dated 27.09.2023. It was dispatched and received by the petitioner as well.

3. While this is so, the petitioner has received show cause notice dated 05.10.2023 referring to adverse police verification report, received from R2, revealing that the petitioner was involved in Crime No.271 of 2023 pending before R2 being Inspector of Police, Karungalpalayam Police Station, Erode District for alleged offence under Section 420 of IPC and Sections 5, 7(3) of the TNLR Act.

4. According to the petitioner, the matter is still pending at FIR stage and no charge sheet has been filed. This position is confirmed by Mr.Meganathan,



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who has accepted notice for R2. The petitioner has, in response to show cause notice, appeared before the officer on 10.01.2024, filed a reply of even date and in extreme compliance, handed over the passport to R1 as well. There is an endorsement in hand in the reply of the petitioner dated 10.01.2024, to following effect:

'Passport in safe custody of RPO Coimbatore. Advised to submit acquittal order from the concerned Trial court.'

5. I find several irregularities in the procedure followed. Firstly, R1 ought to have awaited the police report without which the renewed passport has been issued on 27.09.2023. Secondly, the settled position of law in regard to the issuance/renewal or otherwise of the passport in cases where FIR/criminal case is pending has been set out by the Hon'ble Surpeme Court in *Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation* (Criminal Appeal No.1342 of 2017 dated 27.09.2021) and has been followed by different Courts including 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 courts 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).



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6. In the aforesaid circumstances, the train of events as noted aforesaid, particularly the forfeiture of the petitioner's passport that was issued by R1 is found to be erroneous. Since the petitioner seen to have complied with show cause notice dated 05.10.2023 as evidenced by reply filed on 10.01.2024 and the surrender of the passport on that day, I see no reason to direct the petitioner to appear once again before R1.

7. To be noted, the factual position that the petitioner has actually appeared in response to show cause notice, filed reply dated 10.01.2024 and surrendered the passport to R1 are not in dispute as Mr.R.Subramanian, who accepts notice for R1, on instructions, categorically accedes to this position.

8. In light of the discussion as aforesaid, there is a direction to R1 to hand over the passport to the petitioner as and when the petitioner appears before him with a copy of this order.

9. This Writ Petition is disposed in the aforesaid terms. No costs. Consequently, the connected Miscellaneous Petitions are closed.

01.03.2024

Index : Yes / No

Speaking order

Neutral citations: Yes

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