



W.P.No.6028 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.6028 of 2024

W.M.P.No.6668 of 2024

M.Ramamoorthy

...Petitioner

-Vs-

1. The State of Tamilnadu,
Rep. by its Secretary,
Public Work (Estt-1-2) Department,
Secretariate,
Fort St., Goerge,
Chennai-600 009.

2. The Inspector General of Registration,
No.100, Santhome High Road,
Mandavelipakkam,
Raja Annamalaipuram,
Chennai-600 028.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent vide Letter No.602/Estt-I-2/2024-1 dated 28.02.2024 (wrongly mentioned as 28.02.2023) quash the same and consequently direct the 1st respondent to issue a 'No Objection Certificate' granting permission to the petitioner allowing him to travel to Canada on 10.03.2024 for



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attending his granddaughter's 1st birthday and a subsequent family get together and come back to Chennai on 21.03.2024.

For petitioner : Mr.C.Vigneshwaran
For respondent 1 : Mr.V.Veluchamy,
Additional Government Pleader
For respondent 2 : Mr.Yogesh Kannadasan

ORDER

This writ petition has been filed challenging the order passed by the 1st respondent dated 28.02.2024 thereby rejected the request made by the petitioner to visit abroad.

2. The petitioner while he was working as Assistant Executive Engineer and he was deputed to the 2nd respondent's department for valuation of properties which are registered with the 2nd respondent department to avoid revenue loss to the exchequer. While being so, in the month of November 2022, one, Mr.Gopalakrishnan belongs to Tirupur District had purchased a property admeasuring 3020 Sq.ft., along with land and building and had presented the document for registration with the Joint No.2 Sub-Registrar, Tirupur and the same was registered as



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Doc.No.5945/2022 on 25.11.2022. It was not released as the value of the property was more than Rs.50 lakhs and the same had to be valued by the Assistant Executive Engineer in Madurai. The same was sent by the concerned Sub-Registrar office to Madurai. While being so, a complaint was lodged by the said Mr.Gopalakrishnan alleging that the petitioner and his assistant demanded bribe amount of Rs.75,000/- for issuance of valuation certificate. Based on the said complaint, the Vigilance and Anti-Corruption, department organized a Trap proceedings and registered FIR in Cr.No.1 of 2023 for the offences punishable under section 7 r/w.12 of the Prevention of Corruption Act 1988 as amended by Prevention of Corruption Act 2018.

3. In pursuant to the registration of FIR, the petitioner was arrested and remanded to judicial custody on 10.03.2023. Therefore, the petitioner deemed to be suspended from service by an order dated 21.03.2023 vide G.O.(D).No.24, Public works (Estt-I-2) Department on the file of the first respondent. Subsequently, the petitioner was released on bail in CrI.M.P.No.3731/2023 dated 10.04.2023. While granting bail to the petitioner, certain conditions were imposed to the petitioner. The said



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conditions were also duly complied with by the petitioner. Now the investigation is still pending and no charge sheet has been filed so far. In the mean while, the petitioner also submitted representation to revoke his order of suspension on the ground of prolonged suspension. However, it was not considered and as such the petitioner was constrained to file writ petition in W.P.No.24454 of 2023 and this Court passed an order dated 18.08.2023 directing the respondents to consider the representation submitted by the petitioner in the light of the G.O.(Ms).No.81, Human Resources Management (N) Department dated 04.08.2022. However, so far no order has been passed by the first respondent as directed by this Court. In the mean while, the petitioner was invited to take part in the petitioner's granddaughter's first birthday to be held at Canada. The petitioner is willing to attend the same and spend time with her grandchild. But due to order of suspension, the petitioner is not able to move outside the headquarters. Hence, the petitioner submitted representation on 08.02.2024 to the first respondent seeking permission to visit Canada from 10.03.2024 to 21.03.2024. However, it was returned by the order dated 28.02.2024 of the 1st respondent on the ground that No Objection Certificate cannot be issued



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since the criminal case in Cr.No.1 of 2023 is pending against the petitioner.

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4. On perusal of the bail granted to the petitioner by this Court, the petitioner was imposed with following conditions:

"i) A bail bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) has to be executed by the petitioner along with two sureties and one of them should be the blood relative of the petitioner/accused.

ii) The petitioner has to regularly appear before the respondent's office for 15 days in between 10.00A.M.to 12.00P.M from the date of his release and thereafter he has to appear before this Court on every first week of a month for 06 months.

iii) The petitioner or his men shall not tamper with the evidence.

iv) The petitioner shall not abscond and he shall co-operate with the investigation agency as and when required.

v) Violation of any of the conditions imposed by this Court will result in cancellation of the bail.

vi) In case of the conditions No.(i) to (v) are violated, it is open to the investigating officer to file an appropriate application for cancellation of bail granted hereby."

5. There was no condition either to surrender his passport or not to move outside the jurisdiction of the Investigation Officer. Whereas on perusal of the order of suspension dated 21.03.2024 vide G.O.(D).No.24, Public Works (Estt-I-2) Department, revealed that during the period of



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suspension, the petitioner shall be at Madurai and the petitioner shall not leave the headquarters without obtaining prior permission of the authority concerned. However, the request made by the petitioner was rejected on the ground that the criminal case is pending in Cr.No.01 of 2023. The same is pending without filing final report so far. The petitioner was also granted bail and the conditions imposed against him were also duly complied with. The petitioner also produced copy of the Air Tickets to visit Canada on 10.03.2024 and return ticket from Canada to Chennai on 21.03.2024 in the Lufthansa Airlines. The Hon'ble Supreme Court of India held that suspension cannot be a reason for depriving an individual's liberty under Article 19(1)(d) r/w. Article 21 of Constitution of India. However, the right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right.



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6. Therefore, this court is of the opinion that there is no reason for the 1st respondent to refuse permission to the petitioner to travel abroad.

That part, as stated supra while granting bail to the petitioner, there was no condition to surrender his passport and no condition not to leave this country.

7. Therefore, in view of the above facts and circumstances, the order passed by the 1st respondent cannot be sustained and liable to be quashed. Accordingly, the order passed by the first respondent dated 28.02.2024 is quashed. The petitioner is permitted to go to abroad with the following conditions:

- i) The petitioner shall return to India on or before 25.03.2024.
- ii) The petitioner shall report before the 1st respondent on 25.03.2024.

8. With the above direction, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.



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Index : Yes/No

Internet: Yes/No

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Note:

Issue order copy on 07.03.2024.



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1. The State of Tamilnadu,
Rep. by its Secretary,
Public Work (Estt-1-2) Department,
Secretariate,
Fort St., Goerge,
Chennai-600 009.
2. The Inspector General of Registration,
No.100, Santhome High Road,
Mandavelipakkam,
Raja Annamalaipuram,
Chennai-600 028.



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G.K.ILANTHIRAIYAN,J.
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