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W.P.No.18398 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

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THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.18398 of 2021 and
W.M.P.Nos.19614 & 19615 of 2021

Premalatha Vijayakant

... Petitioner

Vs.

The Regional Passport Officer,
O/o. Regional Passport Office,
Chennai Royala Towers No.2 and 3,
IV Floor, Old No.785, New No.158,
Anna Salai,
Chennai-600 002.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st Respondent pertaining to the Letter Ref No.CNO/311147893/21 dated 26.08.2021 and quash the same and direct the Respondent to re-issue the petitioner's passport in continuation to Passport bearing No.Z6160081 and permit the petitioner to travel abroad without producing NOC from the Tirunelveli JM IV Court in C.C.No.747 of 2020.

For Petitioner

: Mr.A.Ashwin Kumar
for
M/s.P.Wilson Associates

For Respondent

: Mrs.V.Sudha
Central Government Standing
Counsel



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ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 26.08.2021 thereby directed the petitioner to produce orders from concerned Court pertaining to the case pending against the petitioner to Depart from India along with undertaking as per notification issued by the Ministry of External Affairs in GSR 570 (E).

2. The petitioner was issued passport and thereafter she was issued notice dated 11.06.2021 thereby called upon her to submit her explanation on the basis of adverse report submitted by the Intelligence. On receipt of the same, the petitioner had sent reply through email dated 29.06.2021. On receipt of the same, the petitioner was directed to appear for enquiry. However, the petitioner failed to appear for enquiry. Thereafter, the petitioner was issued show cause notice dated 24.08.2021 thereby called upon her as to why the action should not be taken to impound her passport under section 12(1)(b) of the Passport Act, 1967. On receipt of the said show cause notice, the petitioner appeared for enquiry before the respondent on 26.08.2021 and submitted her explanation in respect of the criminal case pending against her.



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However, the explanation was not satisfying in nature and as such the respondent directed the petitioner to surrender her passport and also denied for seeking permission to travel abroad.

3. The learned counsel for the petitioner would submit that insofar as the criminal cases are concerned, one criminal case is pending against the petitioner which has already been quashed and other case is pending in the FIR stage. Therefore, pending FIR is not an impediment for issuance of passport. He further submitted that it is clear violation of petitioner's right under Article 21 of Constitution of India as the petitioner was denied the right to travel abroad.

4. According to the interim order dated 01.09.2021 this Court directed the petitioner to appear before the respondent and file an affidavit of undertaking to the effect that she will appear before the authority or any other jurisdictional court, as and when required. The said affidavit of undertaking shall also contain the travel particulars regarding the date of departure as well as return of the petitioner, place of travel, etc. On filing of such affidavit of undertaking, the respondent shall issue passport to the petitioner immediately,



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after making enquiry, if any, with respect to other issues. After returning to India, the petitioner shall appear before the respondent along with passport. Though, the petitioner visited abroad and returned to India, she failed to appear before the respondent along with passport.

5. That apart, on perusal of the counter affidavit filed by the respondent revealed that adverse intelligence report received by the respondent citing the involvement of the petitioner in Cr.No.128 of 2018 for the offences punishable under sections 143, 188, 341 of IPC and Crime No.191 of 2016 for the offences punishable under sections 171F, 188 IPC, 123(1)(A)(a) of Representation of People Act and the cases have been pending for Trial on the file of the Judicial Magistrate concerned in C.C.No.747 of 2020. Therefore, it attracts the Section 10(3) (e) of Passport Act, 1967. The Section 10(3)(e) of Passport Act, 1967 are extracted hereunder:

"10(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document;

(e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India."



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6. Further, the petitioner was provided with a personal hearing on 26.08.2021 and advised to furnish necessary order/permission from the concerned Trial court, along with an undertaking as per Central Govt., Gazette Notification issued by Ministry of External Affairs in GSR 570(E) dated 25.08.1993. As per the present status of criminal cases registered against the petitioner, police verification report received by the respondent dated 13.06.2024 from the office of the Commissioner of Police, Chennai. The details of criminal cases registered against the petitioner are extracted hereunder:

Sl.No	Station	Cr.No. and Section	Stage of the Case
1	Cuddalore District Nellikuppam PS	Cr.No.183/2014 143, 341, 188 IPC	JM-I Court, STC.No.82/2016
2	Cuddalore District Nellikuppam PS	Cr.No.05/2018 151 Cr.PC	Referred
3	Cuddalore District Nellikuppam PS	Cr.No.262/2009 188, 263 IPC	Referred
4	Krishagiri District Hosur PS	Cr.No.364/2021 143, 188, 269 IPC	Under Investigation
5	Thoothukudi District SIPCOT PS	Cr.No.128/2018 143, 188, 341 IPC	Not Taken on File
6.	GCP Chennai B-1 North Beach PS	Cr.No.828/2021 143, 188, 269, 290 IPC, 4A(1b)-TNOPPD Act	Action Dropped
7	Madurai District SS Colony PS	Cr.No.1685/2011 171(H), 188 IPC	Action Dropped
8	Pudukottai District Athanakottai PS	Cr.No.45/2012 4A(1a), 4B-	Referred



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Sl.No	Station	Cr.No. and Section	Stage of the Case
		TNOPPD Act	
9	Pudukottai District Athanakottai PS	Cr.No.46/2012 4A(1a), 4B- TNOPPD Act	Referred
10	Tirunelveli District Tirunelveli Town PS	Cr.No.191/2016 171(F), 188 IPC, 123(1) (A)(A) Representation of People Act	Quashed
11	Erode District Gobichettipalayam PS	Cr.No.176/2014 504, 505(I)(b), 109 IPC	Acquitted

7. That apart, another case is also registered against the petitioner and the same is pending before the Judicial Magistrate-I in STC.No.82 of 2016. Therefore, so far two cases are pending, after filing of charge sheet in which one is pending for trial and another one is pending for taking cognizance. Therefore, it clearly attracts the Section 10(3)(e) of the Passport Act, 1967. Further, as per the Central Government Gazette Notification GSR 570(E) dated 25.08.1993 as and when the petitioner produces permission order to depart from India/for restoration of passport facilities from the concerned court along with undertaking, the respondent is directed to consider the same on merits in accordance with law.

8. In view of the above, this court cannot find any infirmity or illegality



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in the order passed by the 1st Respondent dated 26.08.2021. Further, the petitioner failed to surrender passport before the respondent as directed by this Court by way of interim order after returning to India, the respondent is at liberty to take appropriate action as against the petitioner in accordance with law. This writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

20.06.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
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To

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G.K.ILANTHIRAIYAN, J.
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