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W.P. No.24309 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.24309 of 2024
and
W.M.P. No.26559 of 2024

Ramesh Kumar

Vs

... Petitioner

1. Union of India,
Rep. By the Secretary,
Ministry of External Affairs,
Patiala House Annex,
Tilak Marg,
New Delhi – 110 001.

2. The Assistant Foreigners,
Regional Registration Officer,
Bureau of Immigration,
CSI Airport,
Mumbai – 400 099.

3. The Regional Passport Officer,
Regional Passport Office,
Rayala Towers No.2 & 3, IV Floor,
Old No.785, New No.158,
Anna Salai,
Chennai,
Tamil Nadu – 600 002.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned order bearing number 2464, dated 08.01.2021 issued by the 2nd respondent and quash the same and the proceedings arising thereof and consequently direct the 3rd respondent to release the passport bearing No.K4343941, within the time frame.

For petitioner	: Ms. Sankari for M/s.Nathan & Associates
For respondents	: Mr. M. Sathyan for R1-R3

ORDER

Heard Ms. Sankari, learned counsel for the petitioner. Mr.M.Sathyan, learned counsel accepts notice on behalf of the respondents 1 to 3. By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2. This writ petition has been filed to call for the impugned order bearing number 2464, dated 08.01.2021 issued by the 2nd respondent and quash the same and the proceedings arising thereof and consequently direct the 3rd respondent to release the passport bearing No.K4343941, within the time frame.

3. It is averred that the petitioner is a holder of the Indian Passport.



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He was employed as Mechanic in Yemen since 2013. During his employment in the said country, he travelled to his native place thrice, in the year 2015, 2019 and 2021. While so, a notification was issued by the Ministry of External Affairs, New Delhi in the year 2017 and it states that any Indian National who travels to Yemen shall be liable for action under the provisions of Passport Act. Unfortunately, his passport was impounded by the 2nd respondent vide order bearing No.2464, dated 08.01.2021. When that be so, he approached the 3rd respondent office for release of the Passport. It is further stated that the reason for seizure of the petitioner's Passport was that he had travelled to Yemen in violation of the said Notification issued by the Government of India. Later, due to his father's illhealth, he stayed in India. Aggrieved over the impugned order, dated 08.01.2021 issued by the 2nd respondent, this writ petition has been filed as well as seeking for consequential direction to the 3rd respondent to release the At that point of time, in the year 2023, the 2nd respondent issued a letter informing him that it has been decided to impound his Passport bearing No.K4343941.

4. Learned counsel for the petitioner primarily argued that without



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affording an opportunity of hearing, the impugned order, dated 08.01.2021 was issued by the 2nd respondent, which is a mere violation of principles of natural justice. It is her contention that without application of mind and without conducting any proper investigation, the 2nd respondent had acted upon, which resulted in issuance of the impugned order and therefore, such an action is illegal and non-est in law. Therefore, the impugned order, issued by the 2nd respondent, dated 08.01.2021 is liable to be quashed and prays for allowing of this writ petition.

5. She further drew the attention of this Court to the decision of a learned Single Judge in the case of ***S.C. Jain Anto Solomon vs. The Regional Passport Officer and another in W.P. (MD.) No.4255 of 2024 dated 27.03.2024***, wherein in a similar situation, directions were issued to the authorities to release the Passport after obtaining a declaration from the petitioner therein. Likewise, she submitted on instructions that the petitioner herein also would furnish a declaration before the respondents and based on which, the Passport of the petitioner may be released. Hence, she prays for appropriate directions in the above regard.

6. Denying the submissions made by the learned counsel for the



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petitioner, Mr.M. Sathyan, learned counsel for the respondents submitted that due to ban order, the Passport of the petitioner was impounded by the respondents, Further, he conceded with the submissions that the issue stands settled by the decision in ***S.C. Jain Anto Solomon's case (supra)***, however submitted that this Court may direct the petitioner to submit necessary declaration before the respondents and on such submission, the same would be decided by the respondents on merits and in accordance with law.

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

8. From the submissions, it is clear that the petitioner has gone to the Country(Yemen) for livelihood purpose. A bare perusal of records reveals that the petitioner's passport bearing No.K4343941 subsequent to publication of Notification. Further, the issue of similar nature was already dealt in ***W.P. (MD.) No.4255 of 2024 dated 27.03.2024*** and the said directions issued therein would be applicable to this case also. Recording the submissions made by learned counsel on both sides, this Court issues the following directions :-



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a) The petitioner shall appear before the 3rd respondent and offer his explanation along with declaration that he will not travel to Yemen, so long as the ban order is in force, within a period of two weeks from the date of receipt of a copy of this order.

b) On such declaration, after satisfying that the petitioner had not indulged in any Anti National activities by breaching the ban, a lenient and indulgent view can be taken; as well as considering all the mitigating circumstances pleaded by the petitioner, the 3rd respondent shall take a call and decide the issue of releasing the petitioner's Passport. The aforesaid exercise shall be decided on merits and in accordance with law and communicated to the petitioner, within a period of eight weeks thereafter.

9.The writ petition stands disposed of accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No
Speaking order / Non speaking order



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Neutral citation : Yes / No

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M.DHANDAPANI, J.

vsi2

To

1. The Secretary,
Union of India,
Ministry of External Affairs,
Patiala House Annex,
Tilak Marg,
New Delhi – 110 001.

2. The Assistant Foreigners,
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