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W.P.No.33748 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.33748 of 2024

Senthil kumar

...Petitioner

Vs

1. The Additional Director,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty road, T.Nagar,
Chennai -600 017.
2. The Foreigner Regional Registration Officer,
Bureau of Immigration,
Shastri Bhavan annexure building,
No.26, Haddows road,
Chennai 600 006.
3. The Immigration Officer,
Bureau of immigration,
Anna International Airport,
Meenambakkam, Chennai 600 027.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking for issuance of a writ mandamus, directing the first respondent to withdraw or cancel the look out circular issued to the second and third respondents against the petitioner forthwith by considering the petitioner's representation dated 07.10.2024.

For petitioner

: Mr.B.Kumar, Senior Advocate
for Mr.K.Gopal



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W.P.No.33748 of 2024

For respondents

: Mr.M.Santhanaraman
for first respondent.

Mr.M.Ramamoorthy,
Senior Central Government Counsel
for respondents 2 and 3.

ORDER

The writ petitioner herein seeks a direction to the first respondent to withdraw the look out circular issued to the second and third respondents against the petitioner by considering his representation dated 07.10.2024.

2. It is the case of the petitioner that he is engaged in the business of textile exports and he was issued with a Passport bearing No. Z6862413. The first respondent issued a look out circular against the petitioner as early as in the month of 2023, in connection with seizure of gold, for which, a case was registered in R.R.No.15/2023 on the file of Additional Chief Metropolitan Magistrate, Economic Offence-II, Egmore, Chennai. The detention order passed against the petitioner was set aside by a Division Bench of this Court in HCP No.953/2024, dated 31.07.2024. In such circumstances, the petitioner submitted a



W.P.No.33748 of 2024

WEB COPY

representation before the first respondent seeking revocation of look out circular against the petitioner.

3. The first respondent filed a counter affidavit stating that the representation of the petitioner dated 07.10.2024 was considered and a proposal for revocation of look out circular against the petitioner was already forwarded to the Immigration Intelligence Bureau, New Delhi and reply is awaited. It is also stated that necessary undertakings/ affidavit may be obtained from the petitioner assuring his availability in the said adjudication/prosecution proceedings.

4. In response to the specific stand taken by the first respondent, the petitioner filed an undertaking affidavit dated 05.12.2024 and the same reads as follows.

"4. I state that in the adjudication proceedings, I would be represented by an Advocate. I have already appeared once and I further undertake to appear in the said adjudication proceedings.

5. I further submit that as and when, if any prosecution is launched by the Customs department, on receipt of summons, I shall appear and I will contest the proceedings."



W.P.No.33748 of 2024

WEB COPY

5. The learned Standing Counsel appearing for the third respondent produced a written instruction, wherein, it is stated that the Bureau of Immigration has no objection in granting arrival/departure to the petitioner, if the originator of the LOC modifies or deletes it. The same is scanned and reproduced below:-

No. I/OG/FRO/CH/2024(33748) - 119
Bureau of Immigration
(MHA) Govt. of India
No.20, Haddows Road
Shastri Bhavan Annex
Chennai - 600 005

To
Shri Rameshchandra M. SPC,
27F, 3rd floor, parku Kallu Plaza,
Thambai Chetty Street
Chennai - 600 001
Email ID: rameshchandra.law@gmail.com

Quest.

Sir,

Subj: WP No 33748 of 2024 filed by Senthil Kumar against FRRO and others - reg.

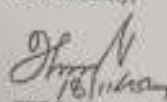
1. It is submitted that this reply is filed on behalf of the respondent No. 2 & 3.

2. Further, it is submitted that the Look Out Circular (LOC) is still existing against the petitioner, but the respondents No 2 & 3 have not initiated the Look Out Circular (LOC). The Immigration authorities only act on LOC requests made by various law enforcement/government agencies. Bureau of Immigration has no objection in granting arrival/departure to the petitioner if the originator of the LOC modifies or deletes it.

3. It is pertinent to mention that The Hon'ble High Court of Delhi dated 05.01.2024, in WPC 13790/2023 filed Rahul DBS Shah Vs UOI and Ors, wherein the Hon'ble High Court of Delhi stated that "BO has not been vested with any jurisdiction to decide as to whether the request of the originator should be accepted or not, nor has been vested with the jurisdiction to delete an LOC on its own, without there being any request from the originator".

4. Hence, it is humbly submitted that the Hon'ble High Court may direct the government agency under whom an enquiry/investigation may be pending against the petitioner to take a call in this matter.

5. The Hon'ble High Court may be informed accordingly for the dismissal of the case.

Yours sincerely,

FRRO/Chennai



W.P.No.33748 of 2024

WEB COPY

6. The first respondent filed counter affidavit stating that the proposal for revocation of LOC against the petitioner was already forwarded to the Immigration Intelligence Bureau, New Delhi. The copy of the letter by first respondent dated 22.11.2024 addressed to the Principal Director General of the first respondent's directorate is also produced before this court and the same is scanned and reproduced below:-


भारत सरकार
Government of India
विश्व मंत्रालय (Department of Revenue)
राजस्व असुचना निदेशालय
DIRECTORATE OF REVENUE INTELLIGENCE
27, सी.एन. (चेट्टी) रोड, टी. नगर, चेन्नई - 600 017
टेलीफोन/Telephone : 28154498, फैक्स/Fax : 28151740

F.No. DRI/CZU/VIII/48/ENQ-1/INT-18/2023 Dated: .11.2024

To
The Principal Director General,
Directorate of Revenue Intelligence (HQRS.)
7th Floor, D-Block, Drum Shape Building,
IP Estate, New Delhi 110002

Sr,

Sub: DRI-Customs offence- Investigation into the seizure of 13.28 Kg of Foreign Origin Gold Smuggled through Chennai International Airport on 08/09.05.2023- Review of of Look Out Circular-Reg.

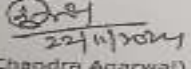
Kind reference is invited to the above captioned subject.

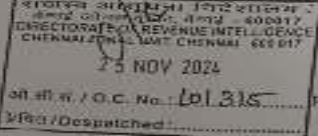
In this regard, It is submitted that this office had requested the DRI Headquarters for the issuance of Look Out Circular (LOC) against Shri. Senthil Kumar S/o Shri. Thiagarajan residing at No. 5/30, VOC Street, Mondyanman Nager, Rodynallur, Tiruvallur- 600052 and holding passport number **Z6862413** vide this office letter F.No. DRI/CZU/VIII/48/ENQ-01/INT-18/2023 dated 12.05.2023 (copy enclosed). The DRI Headquarters vide letter DRI/G1/LOC/25/2023-GI dated 19.05.2023 had communicated to the Immigration Intelligence Bureau, New Delhi for the issuance of the LOC against the above-mentioned person.

The said LOC has been reviewed by this office and it is felt that LOC against the said person is no longer required since Shri. Senthil Kumar appeared before the investigating officer and was detained under the COFEPOSA Act, 1974 and further he was enlarged on bail by Hon'ble High Court of Madras.

In view of the above, it is requested that a deletion request for the LOC may be communicated to the Immigration Intelligence Bureau, New Delhi.

End: As above

Yours faithfully,

(Subhash Chandra Agarwal)
Principal Additional Director General


25 NOV 2024
सी.सी.नं./O.C. No. 101315
VRD/Despatched:



W.P.No.33748 of 2024

WEB COPY

7. In view of the fact that the first respondent, who is originator of the LOC already had sought for withdrawal of LOC, there may not be any impediment for the respondents 2 and 3 to withdraw or cancel the look out circular issued against the petitioner.

8. Accordingly, recording the statement made by the first respondent in the counter affidavit and also averments in para 4 and 5 of undertaking affidavit filed by the petitioner dated 05.12.2024, respondents 2 and 3 are directed to pass appropriate order for lifting look out circular issued against the petitioner, as per request made by the first respondent office. It is needless to say that the second and third respondents shall act, as per the modified request made by the first respondent.

9. With the above direction, this writ petition is disposed. There shall be no order as to costs. Connected miscellaneous petition is closed.

09.12.2024.

Index : Yes / No
Internet : Yes / No
mst



W.P.No.33748 of 2024

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W.P.No.33748 of 2024

S.SOUNTHAR, J.
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W.P.No.33748 of 2024

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