



W.P.(MD) Nos.20299 and 20300 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) Nos.20299 and 20300 2024

and

W.M.P.(MD)Nos.17221 and 17224 of 2024

Minor Krisha Mrithika

...Petitioner in W.P.(MD)No.
20299/2024

Minor Nitisha Tejasvi

...Petitioner in W.P.(MD)No.
20300 of 2024

Minor petitioners are:

D/o.Anu Suga,
Represented by their Mother
Dr.Anusuga, No.8, St.Paul Nagar Extension,
Palayamkottai, Tirunelveli-627 002.

-VS-

1.The Government of India,
Rep.by its Secretary,
Ministry of External Affairs,
North Block, New Delhi.

2.The Regional Passport Officer,
Office of the Regional Passport,
Bharathi Ula Veethi,
Race Course Road,
Madurai-625 002.

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3.S.Tamil Marx Subash

...Respondents in both sides

[R3 is impleaded vide order dated 29.08.2024]

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the records of the impugned letter of the 2nd respondent bearing reference No.SCN/319049457/24 and No.SCN/319050411/24 dated 14.08.2024 and quash the same and consequently direct the 2nd respondent to reissue the passport No.T6721280 and No.T621278 to the Minor Petitioners Krisha Mritika and Nitisha Tejasvi in file No.MD2076837043524 and MD2076837045924, respectively, within a time frame to be fixed by this Court.

In both petitions:

For Petitioner	: Mr.T.S.R.Venkatramana Senior Counsel for Mr.G.Dhanapal
For R1 & R2	: Mr.K.Ashok Kumar Standing Counsel
For R3	: Mr.H.Elango

COMMON ORDER

The petitioners have filed this writ petition challenging the orders of the second respondent in reference No.SCN/319049457/24 and



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No.SCN/319050411/24 dated 14.08.2024 and for a consequential direction to the 2nd respondent to reissue the passport bearing No.T6721280 and No.T621278 to the Minor Petitioners Krisha Mritika and Nitisha Tejasvi within a time frame to be fixed by this Court.

2.Heard the learned counsel for the petitioner, the learned Standing Counsel for the first and second respondents and the learned counsel for the third respondent and perused the materials placed on record.

3.The minor petitioners are represented by their mother. The mother of the petitioners submitted that she is working as a Pediatrician in Al Ahli Hospital, Musaffah, Abu Dhabi, UAE. She married the third respondent and they blessed with two female children. Thereafter, there was a matrimonial discard between the petitioners' father and mother. Hence, the petitioners' mother filed a petition seeking divorce before the Sub-Court, Nanguneri in H.M.O.P.No.38/2024 and the same is pending.

4.The petitioners are under the custody of their mother and they are studying at 11th and 8th standard, respectively in UAE. The petitioners



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and their mother returned to India for vacation and they are due to return to UAE to continue their studies. When the petitioners' mother applied VISA to the UAE Government, it was returned stating that the passport validity of the petitioners is due to expire within six months. Hence, the petitioner applied for re-issuance of passport to the second respondent. The second respondent without considering the material facts had sent a communication to the mother of the petitioners stating that passport cannot be issued stating that since court proceedings for divorce is pending and the petitioners mother has to obtain necessary orders from the Court. Challenging the same, the petitioner has filed this writ petition.

5.The learned counsel for the petitioners submitted that the petitioners are studying in UAE and the dispute is with regard to the matrimonial issue between the petitioners' mother and father. However, the second respondent without considering the factual aspects had mechanically issued the impugned communication directing the petitioners to obtain necessary orders from the Court.



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6. When these matters came up for admission, this Court summoned the third respondent, father of the petitioners and the third respondent also present before this Court today.

7. The learned counsel for the third respondent submitted that the mother has health issues and if the children go with their mother, their life will be at risk.

7. It is not disputed that the petitioners are studying in UAE and living with their mother all along. Initially, the father of the petitioners was also working in Abu Dhabi as a Doctor. Very recently, he resigned his job and came back to India for the reasons best known to him. Now the children are aged about 15 and 13 years.

8. The applications submitted by the petitioners seeking renewal of their passports were not considered on the ground that the father of the petitioner had not signed in the application. Since there was a matrimonial dispute between the father and mother of the petitioners, the



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father had refused to sign in the applications seeking renewal of passports of the petitioners. This Court is of the view that in a matrimonial dispute between the mother and father, the children's education cannot be affected. If passport of the children/petitioners are not renewed citing the dispute between the father and mother and they are not allowed to continue their education in UAE, it will have a serious impact on their education and future.

9. When this court had an interaction with the children, it is clear that they are matured enough to understand the things around them. They continued to express their desire to go along with their mother and continue their education in UAE.

10. In such view of the matter, even though the father has not signed in the application for re-issuance of passport, the authorities ought to have issued the passport based on the annexure -C instead of insisting for annexure-G. Accordingly, these writ petitions are **allowed** and the impugned orders passed by the second respondent dated 14.08.2024 are set aside. The second respondent is directed to re-issue the passports to



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the petitioners forthwith based on Annexure-C submitted along with the application made by the petitioners.

11.By considering the fondness of the third respondent towards his children, this Court had permitted him to interact with his children /petitioners in the Court premises for some time.

12.Though the right of custody cannot be decided by this Court, considering the fact that the welfare of the child is paramount important, this Court exercising its jurisdiction of *parens patriae*, holds that the third respondent is entitled to have visitation right over his children.

13.Therefore, the third respondent is at liberty to visit his children whenever he visits Abu Dhabi during holidays. The mother of the petitioners shall permit the third respondent to visit the children and have their custody at Abu Dhabi itself. The third respondent shall inform the petitioner's mother as to the date, during which he intends to meet the children. On such information, it is the duty of the petitioner to permit the children to meet their father and to be with their father at Abu Dhabi



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itself. The third respondent and his wife shall work out their other remedies before the competent civil Court, where the matrimonial dispute is pending. It is also made clear that the third respondent shall be allowed to interact with his children once in a week through electronic mode. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
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To

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N.SATHISH KUMAR, J.

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