



W.P.(MD)No.29870 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.29870 of 2024

Rawther Naina

... Petitioner

Vs.

1. The Consular,
High Commission of India,
Baitussyifaa, Simpang 40-22,
Jalan Sungai Akar,
Bandar Seri Begawan,
Bc 3915 Brunei Darussalam.
2. The Regional Passport Officer,
The Regional Passport Office,
Wb Road, Water Tank Building,
Tiruchirappalli,
Tamil Nadu - 620 008.
3. The Superintendent of Police,
O/o. the Superintendent of Police,
Pudukkottai,
Pudukkottai District.
4. The Inspector of Police,
Mimisal Police Station,
Pudukkottai District.
5. The Inspector of Police,
Thiruppunavasal Police Station,
Pudukkottai District.
(In Crime No.14 of 2020)

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Email communication dated 12.09.2024 sent by the respondent No.1 and quash the same as illegal, consequently directing the respondent No.1 to reissue passport to the petitioner's son namely Jabarullakan Rawther Naina forthwith based on his Passport Application No. BR0075311621924.

For Petitioner : Mr.MJ.Ameer Hussain
For Respondents : Mr.S.Karthick (R1 & R2)
Central Government Standing Counsel
Mr.K.Gnanasekaran (R3 to R5)
Government Advocate (Crl. Side)

ORDER

The prayer in the Writ Petition reads as follows:-

“To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Email communication dated 12.09.2024 sent by the respondent No.1 and quash the same as illegal, consequently directing the respondent No.1 to reissue passport to the petitioner's son namely Jabarullakan Rawther Naina forthwith based on his Passport Application No. BR0075311621924..”



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2. The petitioner's son, namely, Jabarullakan Rawther Naina is the holder of passport No.Z3085720, which is likely to expire on 15.01.2025. The petitioner's son made an application through online, seeking renewal of passport, since the visa would be renewed only if the passport is having minimum six months of its validity. The first respondent passed the impugned email communication dated 12.09.2023 stating that the passport renewal process is stopped since a case is pending against the petitioner's son in Crime No.14 of 2020 on the file of the 5th respondent police. Hence, the petitioner filed this writ petition seeking for the aforesaid relief on behalf of his son, who is in abroad.

3. When the matter is taken up for hearing, the learned Government Advocate (Crl.) appearing for the respondents 2 and 3 on instructions would submit that a criminal case is registered in Crime No.14 of 2020 as against the petitioner's son. Thereafter, Crime No.14 of 2020 has culminated in laying a charge sheet in FR-106/2020-ORIGINAL, dated 03.03.2020 before the learned Judicial Magistrate, Aranthangi.

4. Heard the learned counsel on either side and carefully perused the entire materials available on record.



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5. The petitioner is given liberty to move the learned Judicial Magistrate, Aranthangi, for the relief now sought for. As and when such miscellaneous petition is filed, it shall be numbered and disposed of within a period of three weeks thereafter by the learned Trial Judge. The learned Trial Judge shall bear in mind that right to travel abroad is a fundamental right and the petitioner's career and avocation may be at stake, if he is denied the right to go abroad. Therefore, the Trial Court, unless there are extraordinary circumstances, shall not deny such relief. Of course, the period of validity of passport will have to be restricted. It is also open to the learned Trial Judge to stipulate appropriate conditions to ensure that the prosecution is not stalled on account of the petitioner's absence in India. If necessary, the applicant can be directed to file an application under Section 228 of Bharatiya Nyaya Suraksha Sanhita, 2023, by executing a special vakalat.

6. Based on the order passed by the learned Trial Court, the petitioner shall move the jurisdictional Regional Passport Officer, who shall dispose of the petition~mentioned application in terms of the said order.



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7. This Writ Petition is allowed on these terms and the impugned Email communication dated 12.09.2024 passed by the first respondent is set aside.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.12.2024

NCC : Yes / No
Index : Yes / No
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TO:-

1. The Superintendent of Police,
O/o. the Superintendent of Police,
Pudukkottai,
Pudukkottai District.
2. The Inspector of Police,
Mimisal Police Station,
Pudukkottai District.
3. The Inspector of Police,
Thiruppunavasal Police Station,
Pudukkottai District.



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L.VICTORIA GOWRI, J.

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Order made in
W.P.(MD)No.29870 of 2024

Dated:
11.12.2024