



W.P(MD)No.26558 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 13.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.26558 of 2024

Hariharan

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office,
New Municipal Complex,
Thillainagar 7th Cross,
Tiruchirappalli – 620 018.

2.The Inspector of Police,
Vattathikottai Police Station,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to issue Passport to the petitioner by processing the petitioner's application in File No.TR1066990160324 based on the explanation and representation dated 23.10.2024 within a time limit stipulated by this Court.



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For Petitioner : Mr.B.Anandan

For Respondents : Mr.K.Gokul
Central Government Standing Counsel
for R.1

Mr.K.Gnanasekaran
Government Advocate (Criminal Side)
for R.2

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, seeking to direct the first respondent to issue Passport to the petitioner by processing the petitioner's application in File No.TR1066990160324 based on the explanation and representation dated 23.10.2024.

2. Heard the learned counsel appearing for the petitioner, the learned Central Government Standing Counsel appearing for the first respondent, the learned Government Advocate (Criminal Side) appearing for the second respondent and carefully perused the entire materials available on record.



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3. The petitioner seeks issuance of passport. He had already submitted the application through online mode on 03.10.2024. While processing the same, the first respondent came to know that a criminal case was registered against the petitioner. In view of the same, the first respondent issued impugned clarification letter dated 16.10.2024. The petitioner submitted his explanation to the first respondent on 23.10.2024 in this regard but no action has been taken on such explanation. Hence, the present writ petition came to be filed.

4. When the matter was taken up for hearing, the learned Government Advocate (Criminal Side) appearing for the second respondent submitted that the case registered against the petitioner in Crime No.134 of 2023 on the file of Vattathikottai Police Station under Sections 379 of IPC and Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957 is pending only at the FIR stage.

5. It is a settled proposition of law that a mere pendency of FIR cannot be a bar for consideration of claim for issuance of passport. This Court in the case of ***W.Jaihar William Vs State of Tamil Nadu*** reported



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in **2014 (2) CWC 684** has held that mere pendency of FIR cannot be construed as pendency of criminal proceedings, unless Judicial Magistrate takes cognizance of offence, on filing of charge sheet on completion of investigation against the accused. Right to travel abroad is a fundamental right.

6. In view of the same, the first respondent is hereby directed to consider the application of the petitioner and issue passport without reference to the FIR lodged against him if he is otherwise eligible for the same. The first respondent shall comply with the said direction on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition stands allowed.
There shall be no order as to costs.

13.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

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To
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L.VICTORIA GOWRI, J.

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