



W.P(MD)No.13734 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.13734 of 2017

R.Balu

... Petitioner

Vs

The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai – 625 002.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to issue a passport to the petitioner vide File No.MD 1069255409316, on the file of the respondent on the basis of his representation dated 27.04.2017.

For Petitioner : Mr.D.Senthil
For R1 : Mrs.S.Ragaventhre
Central Government Standing Counsel



W.P(MD)No.13734 of 2017

ORDER

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The petitioner seeking passport from the respondent has filed this writ petition for a Mandamus, directing the respondent to issue a passport to this petitioner by considering his application dated 27.04.2017.

2.The learned counsel appearing for the petitioner submits that the application of this petitioner for passport was not granted to him in the year 2017 in view of the pendency of a criminal case. Now according to the learned counsel, the case has been charge sheeted and now pending in Special.SC No.170 of 2017 on the file of the Special Court for Exclusive Trial of Cases under SC/ST(POA) Act, Ramanathapuram.

3.The learned Central Government Standing Counsel appearing for the respondent submits that in view of pendency of a criminal case, the petitioner's application for grant of passport was not processed.



W.P(MD)No.13734 of 2017

WEB COPY

4.The Passport Authority can refuse the passport and any travel documents under Section 6 of the Passport Act, 1967. Section 6(2)(F) of the Act would be relevant and the same is extracted as under:-

“6.Refusal of passports, travel documents, etc-

...

(2)Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely -

...

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India.”

5.The above provision enables the Passport Authority to refuse the passport or travel document to an applicant on the ground that proceedings in respect of an offence alleged to have been committed by the applicant is pending before a Criminal Court.



W.P(MD)No.13734 of 2017

WEB COPY

6.The Ministry of External Affairs, Government of India, has issued a statutory notification in GSR.570(E) dated 25.08.1993 with certain guidelines by providing relief to those applicants against whom criminal proceedings are pending before the Courts that they can obtain the passport by obtaining No Objection Certificate from the concerned Court and also by filing an undertaking as prescribed in the notification.

7.Ordinarily, the duration of a passport as per Rule 12 of the Passport Rules is for a period of 10 years. In the event if the applicant is facing any criminal proceedings, the passport may be issued by restricting the period. Therefore, the Passport Authority is not justified in not deciding the application filed by the petitioner for renewal of passport by referring the pendency of any criminal case before the Court.

8.Accordingly, this writ petition is disposed of with the following directions:-



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W.P(MD)No.13734 of 2017

- i. The petitioner shall file an affidavit of undertaking along with substantive sureties to ensure his availability for the trial, before the concerned Court where the case is pending. The Court, on satisfaction and after ensuring his availability for the trial, shall issue a No Objection Certificate to the petitioner enabling him to get his passport renewed.
- ii. The petitioner, thereafter, shall file an affidavit under GSR.570(E) along with a No Objection Certificate obtained from the concerned Court before the Passport Authority. On such presentation of the application, the Passport Authority shall consider the same and renew the passport for a temporary period depending upon the requirement. No costs.

05.01.2024

NCC: Yes/No
Index: Yes/No
Internet: Yes
vrn



W.P(MD)No.13734 of 2017

To
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The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
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B.PUGALENDHI, J.

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