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W.P.No.10202 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.10202 of 2025

R.MALLIKA

... Petitioner

Vs

THE REGIONAL PASSPORT OFFICER,
ROYALA TOWERS,
NO.2 & 3, IV FLOOR,
OLD NO.785, NEW NO. 158,
ANNA SALAI, CHENNAI- 600 002.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondent to consider the petitioner's Application dated 25.12.2024 in file No.MA2077259254524 for re-issuance the passport in favour of petitioner's second son namely, Tashvin within time framed by this Court.

For Petitioner : Mr.I.G.Sahadevan

For Respondent : Mr.R.K.Ashok

ORDER

The writ petition is filed to direct the respondent to consider the petitioner's application in file No.MA2077259254524 dated 25.12.2024 for the reissuance of the passport in favour of the petitioner's second son, namely Tashvin, within the time frame fixed by this Court.



W.P.No.10202 of 2025

2. When the matter came up for hearing, Mr.R.K.Ashok, the learned counsel takes notice on behalf of the respondent.

3. Upon perusal of the affidavit filed in support of the writ petition and the material records of the case, it can be seen that the petitioner is a single parent. Her husband has gone to Australia and it is the petitioner's case that there has been no contact with him due to marital discord. The question is no longer res integra, such cases of single parents who have not formally obtained any court orders of divorce, etc., have been the subject matter of consideration by various high courts.

4. Recently, the Telangana High Court in the Judgement of ***Zaynab Aaliyah Mohamed vs. The Union of India (W.P.No. 25962 of 2024)*** considered the earlier judgment of that Court in ***L.Deepika vs. Union of India*** and the judgement of the Kerala High Court in ***Juvairiya Vs. Regional Passport Officer*** and in ***Chaitanya S.Nair vs. Union of India*** and had considered the issue in detail and held that such application that is made by a single parent can also be considered by the passport issuing authorities, provided that the declarations in Annexure C, D, etc., which may be required by them, are filled up and submitted by the single parent. Paragraphs No. 8 to



21 of the said judgment are extracted hereunder: -

“8. From the material on record it is evident that Dr.Sana Fatima is a single parent to the extent of having exclusive custody of the minor child. It is also undisputed that the parents of the minor are estranged in view of the pending divorce proceedings before the City Civil Court, Hyderabad. The MB,J only issue which falls for consideration is whether the Office Memorandum of 31.07.2024 can affect the right of the minor child for being considered for issuance of a passport and whether Dr.Sana Fatima (the single parent) has complied with the statutory requirements for processing of the passport applications.

Relevant Statutory Provisions

9. Column 16 in Section III of the Guidelines for filling up of Application Forms under the 1980 Rules provides for cases where a single parent can furnish a sworn affidavit before the Ministry stating the facts of the case along with documentary proof as per Annexure 'C'. The relevant part of Column 16 is extracted below:

"...In the NORMAL COURSE the signature/consent of both parents is required for issue of a passport to the minor (Annexure "H"). However, if in case the applicant parent is not in a position to get the consent of the other parent, FOR WHATEVER REASON, the parent applying for the passport of the minor may sign the form and submit a sworn affidavit as per Annexure "G"..."

10. Section IV of the 1980 Rules further provides under (A)(3)(a) that when applying for a minor's passport a declaration from the single parent/applicant parent, as the case may be, will have to be furnished along with particulars about the minor MB,J child as per Annexure 'H'. Annexure 'C' would apply for single parents who are separated but not formally divorced and Annexure 'G' when the passport is being applied for by the single parent or a legal guardian. Section IV (A)(3)(a) further enumerates the documents which should be filled up in Annexures



W.P.No.10202 of 2025

'C' and 'G', as the case may be. A "Note" to this section provides as follows:

"N.B. - Ordinarily the consent of both parents is required for issue of a passport to a minor (below 18 years of age). However if it is absolutely not possible due to any reason, the parent applying for a passport for his/her minor child may submit an affidavit (Annexure "G") and based on the same passport application will be processed."

11. Clause 4.8 of the Guidelines relating to issue of passports framed under [The Passports Act, 1967](#) provides as follows:

"In case one married parent has terminated the relationship with the other parent without a formal divorce, a declaration in the format of Annexure 'C' may be accepted from the parent having the custody of the child."

12. Clause 4.8 was considered by a Division Bench of this Court presided over by the Hon'ble the Chief Justice in W.A.No.239 of 2024 by a judgment dated 02.04.2024 which held that a single parent having custody of a child is entitled to seek renewal of the passport. Neither the 1967 Act nor the Rules contained therein contain any statutory provision that a MB,J single parent cannot maintain an application seeking renewal of the passport.

13. The position under the 1967 Act as well as the 1980 Rules is hence clear. [The Act does not prohibit a single parent from applying for a passport for his/her minor child. The 1980 Rules specifically provide for situations where a single parent with exclusive custody of the minor child can apply for a passport without the signature or consent of the other parent. This would be applicable where the parents are separated but without a formal decree of divorce. The only condition is that the parent must furnish information in the prescribed annexure as per the Rules and Guidelines.](#)

14. Further, any interpretation of the 1967 Act or the 1980 Rules with the effect of preventing a single parent from applying for a passport for his/her minor child is patently contrary to the rights of the parent as



W.P.No.10202 of 2025

well as the minor child including those granted under the Constitution of India. It is inconceivable in this day and age that a single parent who is no longer in touch with the other parent of the minor child "for whatever reason"

as Column 16 states would be made to suffer a statutory embargo in applying for a passport for the minor child.

15. The right of a single parent in applying for a passport of a minor child has been considered by several Courts including a Co-ordinate Bench of this Court in L.Deepika (supra). The facts in that case are similar to the facts in the present writ petition where the passport authorities objected to the processing of the passport application submitted by the petitioner without the consent of the other parent. Like in the present case, a divorce application was also pending in L.Deepika. The Court considered Juvairiya Vs. Regional Passport Officer 2 and Chaitanya S.Nair Vs. Union of India 3 and held that the objections raised by the passport authorities were contrary to the Passport Rules, 1980 and hence they are liable to be set aside. The passport authorities were accordingly directed to consider the application submitted by the petitioner for issuance of passport to the petitioner's minor son.

16. In the present case, there is a pending divorce proceeding between the petitioner's mother and the respondent No.3/father. The respondent No.3 has opted for citizenship of 2(2014) 1 ALT 990 3WP(C)No.22555 of 2021 dated 08.03.2022 MB,J the United States of America and the Court is informed that presently there is no contact between the petitioner and the respondent No.3.

17. Although, not relevant to the issue at hand, there is no criminal case pending against the petitioner's mother/Dr.Sana Fatima. The respondent No.3 has also not filed for custody or guardianship of the minor child. More importantly, the petitioner has already filed declarations in Annexures 'C' and 'D' and all required documents with the said Annexures. Annexure 'C', which is part of the writ petition includes a declaration pertaining to the ongoing Court case as



WEB COPY



W.P.No.10202 of 2025

well as the fact that there is no order prohibiting issuance of passport to the minor child without the consent of the respondent No.3. Annexure 'C' also declares that the petitioner has been deserted by the respondent No.3 and that the minor child is under the exclusive care and custody of the mother/Dr.Sana Fatima.

18. The Office Memorandum ('OM') dated 30.07.2024 which the learned Deputy Solicitor General of India relies on does not assist the case of the respondents and cannot be an impediment for granting relief to the petitioner. First, the OM relates to "re-issue" of passports to minor children. Second, Clause 3(c)(iii) of MB,J the OM deals with the effect of the parent of the minor child having acquired citizenship of another country and the consequent effect of such on a child. Third, Clause 4 also deals with the citizenship of the minor where one of the parent renounces citizenship and the other parent continues to hold Indian citizenship and the custody of the child is given to one of the parents with or without divorce. None of these clauses apply to the issue at hand, namely, whether a single parent can apply for passport of a minor child.

19. Most importantly, the OM, even if applicable cannot replace [The Passports Act, 1967](#) and [the 1980 Rules framed thereunder](#) which specifically takes those cases into account where a single parent is entitled to apply for a passport for his/her minor child without the consent or signature of the other parent, subject to furnishing of the prescribed Annexure.

20. Column 16, as stated above, highlights that if a single parent/ applicant is not in a position to obtain the consent of the other parent "for whatever reason", the applicant-parent may complete the necessary formalities in aid of the application. The fact that the respondent No.3 has acquired American citizenship does not make the case different from the one MB,J provided in Column 16 or a departure thereunder. "For whatever reason" attracts every conceivable situation and the respondent No.3 becoming an American citizen cannot and does not render Column 16 inapplicable to the facts of the present case.



WEB COPY



W.P.No.10202 of 2025

21. *The above reasons are sufficient for the Court to allow the writ petition and grant the relief prayed for."*

5. In view thereof, this writ petition deserves to be allowed on the following terms:-

(i) The petitioner shall appear before the respondent authority on 16.04.2025 or on any other date subsequently notified by the said authority;

(ii) The authority shall insist upon such affidavits and annexures as may be required as per the aforementioned judgment and the petitioner shall furnish all the relevant requisites;

(iii) Upon furnishing the same, *dehors* the fact that the petitioner's husband has not signed the passport application, provided the affidavit or such other required forms, the application for the issue of the passport shall be considered by the respondent and the passport shall be issued in favor of the petitioner's second son, *Tashvin*;

(iv) The said exercise shall be completed within a period of eight weeks from the date of the petitioner's appearance before the respondent authority.

No costs.

20.03.2025

Neutral Citation: Yes
nsl



W.P.No.10202 of 2025

To
THE REGIONAL PASSPORT OFFICER,
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WEB COPY



W.P.No.10202 of 2025

D.BHARATHA CHAKRAVARTHY, J.

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W.P.No.10202 of 2025

20.03.2025



W.P.No.10202 of 2025

W.P.No.10202 of 2025

D.BHARATHA CHAKRAVARTHY.J.,

This matter is listed under the caption “for being mentioned” at the instance of the learned counsel for the respondent.

2. When the matter came up for hearing, the learned counsel for the respondent would bring to the notice of this Court that in appearance portion of the order dated 20.03.2025 in W.P.No.10202 of 2025, the name of the respondent is incorrect.

3. Accordingly, the name of the respondent shall be corrected as follows:

“ For Respondent : Mr.R.K.Gandhi”

4. The Registry is directed to issue a fresh order copy after carrying out the above correction.

05.02.2026

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W.P.No.10202 of 2025
D.BHARATHA CHAKRAVARTHY, J.

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W.P.No.10202 of 2025

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