



W.P.No.35207 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.35207 of 2024

R.Shantha Sakunthala

... Petitioner

Vs.

- 1 UNION OF INDIA
REPRESENTED BY:
THE SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS,
SOUTH BLOCK, RAISINA HILL,
NEW DELHI – 110 011.
- 2 FOREIGNERS REGIONAL REGISTRATION OFFICE (FRRO)
REP. BY THE FRRO OFFICER,
FRRO CHENNAI,
BUREAU OF IMMIGRATION,
GOVERNMENT OF INDIA,
SHASTRI BHAVAN,
NO.26, HADDOWS ROAD,
NUNGAMBAKKAM,
CHENNAI – 600 006,
TAMIL NADU.
- 3 UNION OF INDIA
REPRESENTED BY:
THE SECRETARY,
MINISTRY OF HOME AFFAIRS,
NORTH BLOCK,
CENTRAL SECRETARIAT,
NEW DELHI – 110 001.



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4 DIRECTOR (OCI) / CPIO AND
MINISTRY OF HOME AFFAIRS (FOREIGNERS DIVISION),
1ST FLOOR, MAJOR DHYAN CHAND NATIONAL STADIUM,
INDIA GATE CIRCLE,
NEW DELHI – 110 002.

5 JOINT SECRETARY (FOREIGNERS)
FIRST APPELLATE AUTHORITY,
MINISTRY OF HOME AFFAIRS,
ROOM NO.4, HERITAGE BUILDING,
MAJOR DHYAN CHAND NATIONAL STADIUM,
INDIA GATE CIRCLE,
NEW DELHI – 110 002.

6 BABU PRASAD

(R6 suo motu impleaded vide order
dated 30.07.2025 made in
WP.35207/2024 by NAVJ)

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, commanding the respondents to forthwith process and issue the Overseas Citizen of India (OCI) card for the petitioner's minor son Atharva Prasad, born on 26.12.2020, aged about 3 years and 9 months, bearing Passport Number 661003221, whose application vide OCI Application Number INDC0027FN22 and Application ID 090522R164YD remains unjustly pending before the second respondents within a stipulated time frame.



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For Petitioner : M/s.R.Sumithra Chakkaravarthi

For Respondents : Mr.AR.L.Sundaresan for R1 to R5
Additional Solicitor General of India
Assisted by
Mr.C.Samivel
Sr.CGSC (SPC)
Mr.N.R.Elango for R6
Senior Counsel
for M/s.A.S.Aswin Prasanna

O R D E R

This writ petition has been filed seeking issuance of Writ of Mandamus, directing the respondents to process and issue Overseas Citizen of India (OCI) card for the petitioner's minor son Atharva Prasad, bearing Passport Number 661003221, whose application vide OCI Application Number INDC0027FN22 and Application ID 090522R164YD is pending before the second respondent within a stipulated time frame.

2.The learned counsel appearing for the petitioner submitted that the petitioner was married to one Babu Prasad/ sixth respondent who was employed in USA since 2015, on 03.02.2017 at Coimbatore and after marriage, on 21.04.2017 the petitioner left to USA and joined her husband in Washington. During November 2019, the



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petitioner's husband purchased a house property in USA jointly with the petitioner's name and the petitioner also contributed money for purchase of the said property. Out of their wedlock, a male child named Atharva was born on 26.12.2020 in the United States and by birth, the minor child became an American citizen.

3.The learned counsel appearing for the petitioner further submitted that thereafter, matrimonial dispute arose between the petitioner and the sixth respondent. Thereafter, the petitioner received summons from the U.S.Superior Court of King County, Washington stating that her husband has filed case for dissolution of marriage and an exparte restraining order was served upon the petitioner on 16.01.2022 preventing the child to travel to India. The US Court vide order dated 25.04.2022 declared the petitioner as the temporary primary custodian of the minor child and permitted the petitioner to travel to India along with the minor with a condition of USD 15,000 would be forfeited by the sixth respondent if she did not return back the child to USA within 14 days.

4.The learned counsel appearing for the petitioner further submitted that with great difficulty the petitioner came to India along



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with her son during May, 2022, however, the petitioner was unable to travel to USA to continue the litigation. Thereafter, the petitioner filed application on 11.05.2022 before the second respondent for her minor son's registration as an Overseas Citizen of India Card holder. The learned counsel further submitted that the petitioner filed G.W.O.P.No.1301 of 2022 on the file of the Principal Family Court, Coimbatore seeking custody of her minor son and the Principal Family Court, Coimbatore vide order dated 03.09.2022 granted interim custody of the minor child to the petitioner and the same was also informed to FRRO, however, till date, the second respondent has not processed the application for OCI card for the petitioner's minor son.

5.The learned Additional Solicitor General of India submitted that if the petitioner and her husband give no objection certificate before the second respondent, the second respondent will issue OCI card for the petitioner's minor son, however, due to the dispute between the petition and her husband, the second respondent is not able to issue OCI card for the petitioner's minor son. The learned Additional Solicitor General of India further submitted that inorder to protect the interest of the minor child, visa was extended upto



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31.12.2025 and further submitted that this Court may issue direction to the Principal Family Court, Coimbatore to dispose G.W.O.P.No.1301 of 2022, within a reasonable time frame and may grant liberty to the petitioner and the sixth respondent to file appropriate application before the second respondent after disposal of G.W.O.P.No.1301 of 2022. The learned Additional Solicitor General of India further submitted that this Court may issue direction to the second respondent to extend the visa of the petitioner's minor child by a further period of three months.

6.The learned Senior Counsel appearing for the sixth respondent submitted that the petitioner and the sixth respondent were employed in USA and on 26.12.2020, a male child was born to them in the United States and by birth, the minor child acquired American citizenship. When they were working in USA, a case was instituted by the sixth respondent against the petitioner after due notice to the petitioner and the US Court also permitted the petitioner to travel to India along with the minor with a condition of USD 15,000 would be forfeited by the sixth respondent if she did not return back the child to USA within 14 days and the petitioner also gave an undertaking before the US Court that she would return to USA,



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however, contrary to the said undertaking, she fled from USA and instituted case against the sixth respondent. However, the sixth respondent have no objection for disposal of G.W.O.P.No.1301 of 2022 pending before Principal Family Court, Coimbatore.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.Perusal of records disclose that the petitioner was married to the sixth respondent on 03.02.2017 and after marriage, the petitioner left to USA and joined her husband in Washington and out of their wedlock, a male child was born on 26.12.2020 in the United States and by birth, the minor child became an American citizen. Thereafter, matrimonial dispute arose between the petitioner and the sixth respondent and the petitioner came to India along with her son during May, 2022. Thereafter, the petitioner filed application on 11.05.2022 before the second respondent for her minor son's registration as an Overseas Citizen of India Card holder and the same is pending. The records also reveal that the petitioner has filed G.W.O.P.No.1301 of 2022 on the file of the Principal Family Court, Coimbatore.



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9.Considering the submissions made on either side and in the interest of the minor child, this Court directs the second respondent to extend the visa of the petitioner's minor child by a further period of three months, i.e., till 31.03.2026. The Principal Family Court, Coimbatore is directed to dispose G.W.O.P.No.1301 of 2022 on or before 31.01.2026 after providing opportunity to the respective parties. Liberty is granted to the petitioner and the sixth respondent to work out the remedy in the manner known to law after disposal of G.W.O.P.No.1301 of 2022. Further liberty is granted to the sixth respondent to canvas all the points including the jurisdictional issue before the Principal Family Court, Coimbatore.

10.With the above observations and directions, the writ petition is disposed of. No costs.

24.11.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No



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