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W.P.Nos.39280 & 39284 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.39280 & 39284 of 2025

and

W.M.P.Nos.44085 & 44089 of 2025

1.Etim Antigha Ita	... Petitioner in W.P.No.39280 of 2025
2.Christopher Oluchukwu	... Petitioner in W.P.No.39284 of 2025

Vs.

1.The Principal Secretary to Government,
Public (Foreigners) Department,
Public Department, Secretariat,
Fort St.George, Chennai – 600 009.

2.The State of Tamilnadu by Inspector of Police,
D-2 Anna Salai Police Station,
Triplicane, Chennai District.
(Crime No.118 of 2025)

... Respondents

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the Government Order (G.O) dated 04.07.2025 (Impugned Order) passed by the Respondent No.1, under Section 3 of Foreigners Act, 1946 and quash the order dated 04.07.2025, passed by Respondent No.1 as arbitrary, erroneous and unsustainable in law and on facts.



W.P.Nos.39280 & 39284 of 2025

For Petitioner : Mr.Igwe Remigius
(in both WPs)

For Respondents : Mr.P.Kumaresan
(in both WPs) Additional Advocate General
Assisted by Mrs.S.Anitha
Special Government Pleader [R1]
Mr.S.Balaji
Government Advocate (Crl.Side) [R2]

COMMON ORDER

Challenging the impugned G.O.(1D) No.397, dated 04.07.2025, passed by the 1st respondent, the petitioners have filed these writ petitions.

2. Mr.P.Kumerasan, learned Additional Advocate General, assisted by Mrs.S.Anitha, learned Special Government Pleader, accepts notice on behalf of the 1st respondent and Mr.S.Balaji, learned Government Advocate (Crl.Side), accepts notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel for the parties, these writ petitions are taken up for final disposal at the stage of admission itself.



3. The case of the petitioners they are Foreign Nationals, Viz., Nigeria and they were studying B.C.A in East West College of Management, Karnataka and B.Pharm in East West College of Pharmacy, Karnataka respectively. Whiles, on 09.04.2025, the 2nd respondent arrested them from their residence at Bangalore and falsely implicated them in Crime No.118 of 2025 for the offence punishable u/s 8(c), 20(b)(ii)(A), 22(b), 25 and 29(1) of Narcotic Drugs & Psychotropic Substances Act, 1985 (in short "the NDPS Act"). Thereafter, they have filed bail applications on the file of the Principal Special Court under EC & NDPS Act, Chennai in CrI.M.P.No.2937 of 2025 and they were granted bail on 12.06.2025 on certain conditions and later one of the conditions was modified in CrI.M.P.No.4487 of 2025 on 15.07.2025. However, they were not able to comply with the said condition, and they are in judicial custody at Puzhal II till date. Whiles, the 1st respondent has passed the impugned G.O., dated 04.07.2025, restricting the movement of the petitioners herein and others and ordered that they shall reside in Special Camp, Tiruchirapalli District in the event of their release from prison. Challenging the same, the petitioners have filed these writ petitions before this Court.



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4. The learned counsel for the petitioners submits that unless the impugned order is quashed, the petitioners will not be able to obtain extension of visa and continue to cooperate in the prosecution by engaging counsel before the concerned Court. Further, he submitted that the petitioners are not able to continue their studies in India due to non-extension of visa, which they could obtain only if the impugned order is quashed. Accordingly, he prays for appropriate orders.

5. The learned Additional Advocate General appearing for the respondents submitted that the visa in respect of the petitioner in W.P.No.39280 of 2025 expired much earlier and the visa in respect of the petitioner in W.P.No.39284 of 2025 expired on 07.10.2025. Once the visa of a Foreign National is expired, the individual has to be confined only in Special Camp for Foreign Nationals. Unless the criminal case against the petitioners ends in acquittal and the visa is extended, they would not be entitled to move freely in India. In view of the pendency of the criminal case against the petitioners, necessarily, they have to reside in Special Camp for Foreign Nationals. Therefore, he submits that the impugned G.O., does not requires any interference. Accordingly, he prays for dismissal of these writ petitions.



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6. Admittedly, the petitioners were arrested and remanded to judicial custody for the case in Crime No.118 of 2025 for the offence punishable u/s 8(c), 20(b)(ii)(A), 22(b), 25 and 29(1) of NDPS Act. It is also not in dispute that as on date, the visa of both the petitioners had expired. It is not the case of the petitioners that they have taken any steps even anterior in point of time to the criminal case to have the visa extended. When the petitioners, who claim to be studying in India, knew that their visa is going to expire, prudent action warrants that they should have taken steps to have the visa extended. However, no steps seems to have been taken by the petitioners to have their visa extended, by which time, the petitioners have been implicated in a criminal case.

7. When the visa of the petitioners are not extended, necessarily, the petitioners cannot be allowed to move scot-free within the Indian territory and they need to be confined in Special camps and, therefore, the impugned Government Order has come to be passed. In the interregnum, the criminal case having been fastened on them, necessarily, the outcome of the criminal case would only determine the



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extension of visa to the petitioners. Therefore, necessarily the petitioners have to await the outcome of the criminal case to have their visa extended and in the above backdrop, in the absence of any visa, the Government Order directing the petitioners to be confined in the Special Camp cannot be said to be erroneous and the challenge to the impugned G.O., necessarily have to be negated considering the safety and security of the nation. Therefore, this Court is not inclined to interfere with the impugned G.O. and these writ petitions are liable to be dismissed.

8. Accordingly, these Writ Petitions are dismissed. Subject to the outcome of the criminal case, it is open to the petitioners to take recourse to have their visa extended in the manner known to law. No costs. Consequently, the connected miscellaneous petitions are closed.

23.10.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp



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To
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- 1.The Principal Secretary to Government,
Public (Foreigners) Department,
Public Department, Secretariat,
Fort St.George, Chennai – 600 009.
- 2.The Inspector of Police,
D-2 Anna Salai Police Station,
Triplicane, Chennai District.



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M.DHANDAPANI, J.

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