



W.P.(MD)No.11393 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.11393 of 2025

Haji Mohamed

... Petitioner

-VS-

The Regional Passport Officer,
O/o. The Regional Passport Officer,
7th Cross, Thillai Nagar,
Tiruchirappalli.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to forthwith renew the petitioner's passport for the period of 10 years as stipulated under Section 10 of Passport Act, 1967 and Rule 12 of the Passport Rules, 1980 without reference to the Gazette Notification issued by the Central Government vide GSR No.570(E) dated.25.08.1993, by considering the petitioner's representation dated.17.04.2025, within a period that may be fixed by this Court.

For Petitioner : Mr.M.Mohamed Ibram Saibu
for M/s.Ajmal Associates

For Respondent : Mr.C.Shanmugasundaram
Central Government Standing Counsel



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ORDER

With the consent of the parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2. Heard both sides.

3. The petitioner seeks to renew his passport. The petitioner submits that the Passport Authority issued a new passport to him with a validity of one year, deviating from the standard validity period of 10 or 20 years prescribed under Rule 12 of the Passports Rules, 1980. Such an action is not supported by any Court order specifying a shorter validity period. The Passport Authority retained the petitioner's old passport, which was valid until 30.07.2027, without providing any legal basis or communication to the petitioner. Section 10 of the Passports Act, 1967 grants the Passport Authority the power to impound or revoke a passport, but such actions must be based on specific grounds and communicated to the passport holder. The learned Judicial Magistrate No.I, Trichy, directed the return of the petitioner's passport in CrI.M.P.No.20889 of 2024. However, the Passport Authority issued a new passport with a shorter validity period, instead of complying with the Court's order to return the existing passport.



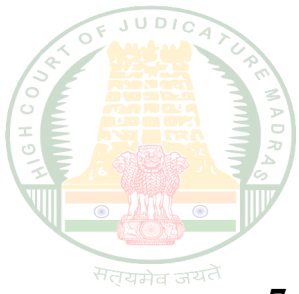
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4. The petitioner further submits that the Passport Authority has not provided any reasons for issuing a passport with a shorter validity period or for retaining the old passport, thereby violating the principles of natural justice. Section 10(5) of the Passports Act mandates that the authority shall record and communicate the reasons for such actions. Therefore, the petitioner submitted a representation on 17.04.2025, which has not been acknowledged or acted upon by the Passport Authority. Hence, the present Writ Petition.

5. Taking into consideration of the aforesaid facts and circumstances of the case, this Court opines that pendency of criminal cases should not be a ground to deny passport facilities to an individual or to hold a passport.

6. It is also relevant to note that the respondent cannot refuse the renewal of passport of the petitioner on the ground of the pendency of the criminal case against the petitioner and the said action of the respondent is contrary to the procedure laid down under the Passports Act, 1967 and also the principle laid down by the Hon'ble Supreme Court in **Vangala Kasturi Rangacharyulu vs. Central Bureau of Investigation** reported in 2020 CrI.L.J. (SC) 572.



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7. It is also relevant to note that the Apex Court in **Vangala Kasturi Rangacharyulu's case** (cited supra) had an occasion to examine the provisions of the Passports Act, 1967, pendency of criminal cases and held that refusal of a passport can be only in case where an applicant is convicted during the period of five (05) years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years. Section 6.2(f) relates to a situation where the applicant is facing trial in a criminal Court. The petitioner therein was convicted in a case for the offences under Sections 420 I.P.C. and also Section 13(2) read with Section 13(1) of the Prevention of Corruption Act, 1988, against which, an appeal was filed and the same was dismissed. The sentence was reduced to a period of one (01) year. The petitioner therein had approached the Hon'ble Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Hon'ble Apex Court has held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Hon'ble Apex Court directed the Passport Authority to issue the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal appeal.



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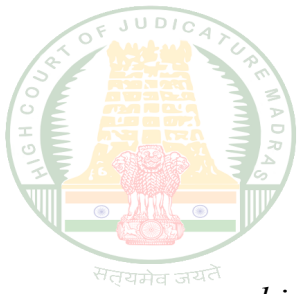
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8. The Hon'ble Apex Court in another judgment in **Sumit Mehta vs. State of NCT of Delhi** reported in **2013 (15) SCC 570**, at paragraph 13 observed as under:-

"The law presumes an accused to be innocent till his guilt is proved. As a presumable innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution of India."

9. The Hon'ble Apex Court in **Menaka Gandhi vs. Union of India** reported in **1978 (1) SCC 248**, has held that no person can be deprived of his right to go abroad unless there is a law enabling the State to do so and such law contains fair, reasonable and just procedure. Paragraph 5 of the said judgment is relevant and the same is extracted below:-

"Thus, no person can be deprived of his right to, go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports, Act, 1967 that it lays down the circumstances under



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which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law.

Therefore, such a right to travel abroad cannot be deprived except by just, fair and reasonable procedure."

10. The Hon'ble Division Bench of the Apex Court in its judgment dated **09.04.2019** in **Satish Chandra Verma vs. Union of India (UOI) and others** reported in **2019 SCC online SC 2048**, has observed at paragraph 5 as under:-

"The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship which are the basic humanities which can be affected through refusal of freedom to go abroad and this freedom is a genuine human right."



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11. A similar issue was arose for consideration before the High Court of Telangana in **Sannith Reddy Mandhadi vs. The Union of India and another** [W.P.No.2422 of 2024], dated 26.02.2024, wherein the High Court of Telangana relied on the judgments of the Division Bench of the Bombay High Court in **Narendra K.Ambwani vs. Union of India** reported in **2014 SCC OnLine Bom 356** and also the another judgment of the Division Bench of the Bombay High Court in **Samip Nitin Ranjani vs. Union of India and others** reported in **2016 SCC OnLine Bom 14539** and allowed the writ petition. The relevant portion of the said order reads as under:-

"13. This Court earlier had an occasion to consider the Gazette Notification issued by the Central Government vide GSR No.570 (E) dated 25.08.1993 wherein instructions were issued to renew the passport only for a period of one year, in case where criminal cases are pending, if no time frame is mentioned by the Courts. This Hon'ble Court, while interpreting the provisions of the said Gazette Notification and Rule 12 of Passport Rules 1980, has held that Passports shall be renewed for a period of ten years in accordance with Rule 12 of the Passport Rules, 1980. The relevant portion of the order dated 18.04.2022 passed in W.P.No.11674 of 2022 in particular paras 7, 8, 9 and 10, read as under:



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"7. Having regard to the rival contentions and the material on record, it is noticed that where there is criminal case pending against an Indian citizen who is seeking issuance or renewal of passport, the Government of India Notification in GSR 570(E) dt.25.08.1993 is applicable. Accordingly, the petitioner has approached the criminal Court by filing Crl.M.P.No.234 of 2020 and the criminal Court has allowed the Crl.M.P. by directing renewal of passport only for the period the petitioner is eligible. As per the Passport Act and the Rules framed thereunder, a citizen is entitled for issuance of an ordinary passport for a period of 10 years and thereafter, the passport holder will have to make appropriate application for renewal of the passport which is again extendable for a further period of 10 years. The Sessions Judge in the order dt.27.10.2020 has observed that pendency of criminal case against the petitioner cannot be a ground for denying his right to renew his passport. However, it is observed that it should be given only for the period he is eligible. (emphasis supplied by this Court). The usage of word 'eligible' connotes that the extension may be for regular period of 10 years as provided in the rules. The judgments on which the petitioner has placed reliance upon are on similar set of facts.



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8. *In all of those cases, the petitioners therein were frequent travellers and the relevant criminal Court therein had directed for renewal of passport in accordance with the prescribed Rules. As the prescribed Rules permit issuance of passport for 10 years, the Courts have held in favour of the petitioners therein. Therefore, in the case before this Court, as the language used by the Magistrate/Judge is 'eligible', the petitioner is also eligible to be issued passport for a period of 10 years.*

9. *In view of the same, this Court deems it fit and proper to direct the respondents to issue the passport for a period of 10 years under Section 10 of the Passports Act.*

10. *The Writ Petition is accordingly allowed. No costs."*

Similar view had been taken by this Court vide its order dated 10.11.2023 passed in W.P.No.17965 of 2023.

14. *The Division Bench of Bombay High Court in the Judgment dated 13.03.2014, reported in 2014 SCC OnLine Bom 356 in "Narendra K. Ambwani v. Union of India", observed at Paragraph Nos.6 and 7, as under:*

"6. This court held that the Rules have been framed under the Passport Act and under Rule 12, a passport other than for a child aged more than 15 years, shall be in force for



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a period of 10 years or 20 years as the case may be from the date of its issue.

7. In the present case, the Respondents contended that the order of the learned Magistrate did not specify the period for which the passport is issued and in the light of Notification dated 23rd August, 1993 (Annexure"6" to the petition), the passport of the citizen against whom the proceedings are pending in the criminal court in India, shall be issued for a period specified by the court and if no period is specified, the passport shall be renewed for a period of one year. This court held that interpretation of the order of the learned Magistrate dated 20th September, 2006 is contrary to the express language of the order. When the order speaks about renewal of the passport in terms of the Passport Rules, reference must be made to Rule 12 alone and the Passport Officer was bound to issue the passport either for a period of 10 years or for a period of 20 years as the case may be in his discretion. The Passport Officer could not have at any rate renewed the passport for a period less than 10 years. Accordingly, the Rule was made absolute and the Regional Passport Officer was directed to issue the passport, renewed for a period of 10 years or 20 years."



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15. Another Judgment dated 30.11.2016 of the Division Bench of Bombay High Court reported in 2016 SCC OnLine Bom 14539 : (2020) 3 AIR Bom R 459 in *Mr. Samip Nitin Ranjani v. Union of India and others*, observed at relevant paragraphs 3 and 4, as under:

"3. The grievance of the Petitioner is that the Passport Authorities, instead of renewing the passport for a period of 10 years as provided under the provisions of the Passports Act, 1967, has renewed the passport only for a period of one year. Challenging the same, writ was filed.

4. In our view, the ratio of the judgment of this Court in the case of *Narendra Ambwani (supra)* would squarely apply to the facts of the present case. The Division Bench of this Court has issued guidelines which are to be followed by the Respondents on the receipt of application for renewal of passport. It is observed in paragraphs 10 and 11 as under:

"10. In the circumstances, we propose to issue guidelines to be followed by the Respondents on receipt of the applications for renewal of the passports, in all cases, where the Magistrate's court has directed that the passport may be renewed as per the "Rules".

11. Accordingly, we issue the following directions:-



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(a) In all cases where the Magistrate's court directs renewal of the passports under the Rules, the Passport Rules, 1980 shall apply and passports other than for a child aged more than 15 years shall be renewed for a period of ten years or twenty years as the case may be from the date of its issue. All qualifying applicants are entitled to have passport renewed for at least ten years. The Regional Passport Office shall renew the passports of such qualifying applicants at least for ten years.

(b) In case where the passports are valid and the applicants hold valid visas on existing passport, the Regional Passport Officer shall issue the additional booklet to the same passport provided the applicant had obtained permission to travel abroad.

(c) If the learned Magistrate passes an order making the reference to the said Notification No.G.S.R. 570(E) dated 26th August, 1993, the passport shall be renewed only for such period that the Magistrate may specify in the order or as otherwise specified in the said Notification where the passport of the applicant is valid for less than one year, the additional booklet may be issued subject to the orders to be obtained in this behalf only of the Magistrate concerned."



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16. Taking into consideration the aforesaid facts and circumstances of the case and duly considering the law laid down by the Apex Court and other High Courts in the various Judgments (referred to and extracted above), the Writ Petition is allowed, the 2nd respondent is directed to consider the explanation dated 05.01.2024 furnished by the petitioner to the notice dated 28.10.2023, issued to the petitioner, duly taking into consideration the law laid down by the Apex Court and the other High Courts in the various Judgments referred to and extracted above and pass appropriate orders on petitioner's application for issuance of passport with File Number HY7075704548723 dated 22.08.2023 for a period of ten years, under Section 10 of the Passports Act, 1967 and under Rule 12 of Passport Rules, 1980, without reference to the Criminal Proceedings pending against the petitioner in C.C.No. 3674 of 2022 on the file of the II Additional Junior Civil Judge cum II Additional Metropolitan Magistrate at LB Nagar and also the Gazette Notification issued by the Central Government vide GSR No.570(E) dated 25.08.1913, subject to the following conditions:

i) The petitioner herein shall submit an undertaking along with an affidavit in Crime No. 465 of 2022 on the file of P.S. LB Nagar, stating that he will not leave India during pendency of the said case without permission of the Court and that he will co-operate with trial Court in concluding the proceedings in the said case.



ii) *On filing such an undertaking as well as affidavit, the trial Court shall issue a certified copy of the same within two (02) weeks therefrom;*

iii) *The petitioner herein shall submit certified copy of aforesaid undertaking before the Respondent Passport Officer for renewal of his passport;*

iv) *The Respondent-Passport Officer shall consider the said application in the light of the observations made by this Court herein as well as the contents of the undertaking given by the petitioner for renewal of his passport in accordance with law, within two (02) weeks from the date of said application;*

v) *On renewal of the Passport, the petitioner herein shall deposit the original renewed Passport before the trial Court in Crime No. 465 of 2022 on the file of P.S. LB Nagar; and*

vi) *However, liberty is granted to the petitioner herein to file an application before the trial Court seeking permission to travel aboard and it is for the trial Court to consider the same in accordance with law."*

12. Taking into consideration of the aforesaid facts and circumstances of the case and duly considering the law laid down by the Hon'ble Apex Court and



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the other High Courts in the various judgments (referred to above), this Court directs the respondent to consider the representation of the petitioner dated 17.04.2025 and pass appropriate orders for issuance of passport for a period of ten years under Section 10 of the Passports Act, 1967 and under Rule 12 of Passport Rules, 1980, without reference to the Criminal Proceedings pending against the petitioner in C.C.No.1336 of 2022 on the file of the Judicial Magistrate Court No.I, Trichy and also the Gazette Notification issued by the Central Government vide GSR No.570(E), dated 25.08.1993, subject to the following conditions:-

i) The petitioner herein shall submit an undertaking along with an affidavit in Crime No.348 of 2016 on the file of Adiramapattinam Police Station, stating that he will not leave India during pendency of the said case without permission of the Court and that he will co-operate with trial Court in concluding the proceedings in the said case.

ii) On filing such an undertaking as well as affidavit, the trial Court shall issue a certified copy of the same within two (02) weeks therefrom;



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iii) The petitioner herein shall submit the certified copy of the aforesaid undertaking before the respondent Passport Officer for renewal of his passport;

iv) The respondent-Passport Officer shall consider the said application in the light of the observations made by this Court herein as well as the contents of the undertaking given by the petitioner for renewal of his passport in accordance with law, within two (02) weeks from the date of the said application;

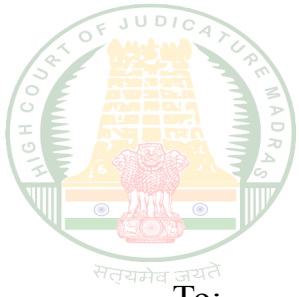
v) On renewal of the Passport, the petitioner herein shall deposit the original renewed Passport before the trial Court in Crime No.348 of 2016 on the file of Adiramapattinam Police Station; and

vi) However, liberty is granted to the petitioner herein to file an application before the trial Court seeking permission to travel aboard and it is for the trial Court to consider the same in accordance with law.

13. This Writ Petition is disposed of accordingly. There shall be no order as to costs.

NCC : Yes / No
Index : Yes / No
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22.04.2025



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To:-
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The Regional Passport Officer,
O/o. The Regional Passport Officer,
7th Cross, Thillai Nagar,
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VIVEK KUMAR SINGH, J.

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