

W.P(MD)Nos.18660 to 18662 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)Nos.18660 to 18662 of 2025

W.P(MD)No.18660 of 2025

Minor.Brenin Jisha
Rep by mother and natural guardian,
Sherin Ann,
13/81 B, C.S.I. Church Road South,
Amnatha Nadar Kudy,
Nagercoil – 629001.

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office Madurai,
Bharathi Vla Veethi,
Race Course Road,
Madurai 625 002

2.N.Arin Babu

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to reissue the Passport to the petitioner on his application in File No.MD2076778806124 of the first respondent in a time bound manner.



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For Petitioner

: Mr.D.Senthil

For R1

: M/s.P.Mahalakshmi

Central Government Standing Counsel

W.P(MD)No.18661 of 2025

Minor.Bryan Noel
Rep by mother and natural guardian,
Sherin Ann,
13/81 B, C.S.I. Church Road South,
Amnatha Nadar Kudy,
Nagercoil – 629001.

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office Madurai,
Bharathi Vla Veethi,
Race Course Road,
Madurai 625 002

2.N.Arin Babu

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to reissue the Passport to the petitioner on his application in File No.MD2076779018524 of the first respondent in a time bound manner.

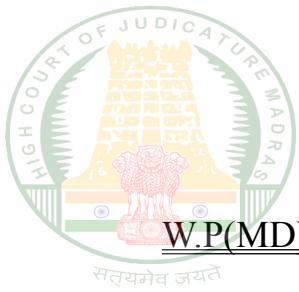
For Petitioner

: Mr.D.Senthil

For R1

: Mr.T.Lenin Kumar

Central Government Standing Counsel



W.P(MD)Nos.18660 to 18662 of 2025

W.P(MD)No.18662 of 2025

Minor.Brenden Noel
Rep by mother and natural guardian,
Sherin Ann,
13/81 B, C.S.I. Church Road South,
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Nagercoil – 629001.

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office Madurai,
Bharathi Vla Veethi,
Race Course Road,
Madurai 625 002

2.N.Arin Babu

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to reissue the Passport to the petitioner on his application in File No.MD2076779230724 of the first respondent in a time bound manner.

For Petitioner

: Mr.D.Senthil

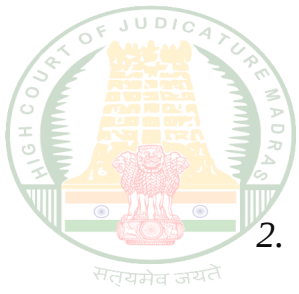
For R1

: Mr.P.Sivachandran

Central Government Standing Counsel

COMMON ORDER

These writ petitions have been filed by minors represented by natural guardian, namely their Mother for reissuance of passports.

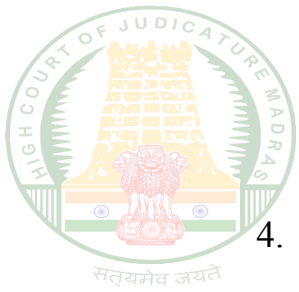


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2. The petitioners are the children of Mrs.Sherin Ann and the second respondent, namely Mr.N.Arini Babu, whose marriage was solemnised in the year 2008. Two of the three petitioners were born in Dubai and one of them was born in India. It appears that there is a marital dispute between the parents and the proceedings to dissolve the marriage are pending before the Family Court, Nagercoil in I.D.O.P.No.961 of 2021 at the behest of the petitioners' Mother.

3. It is noticed that the petitioners' mother namely Mrs.Sherin Ann is employed in Dubai and the second respondent is employed in Kuwait. Since the petitioners are under the custody of their grandmother, who is said to be unwell and unable to take care of them, the petitioners' mother submitted applications for renewal of their passports on 20.01.2025. The dates of expiry of the passport of the respective petitioners are as under:

W.P(MD)No.	Date of Expiry
18660/2025	05.11.2024
18661/2025	22.07.2026
18662/2025	01.11.2025



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4. The learned Central Government Standing Counsel for the first respondent in W.P(MD)No.18661 of 2025 submits that a communication was sent to the petitioners' mother to submit Form D, which is a declaration by the parents. Since the Form D was not submitted, the applications for renewal of the passports was closed on 19.05.2025.

5. It is noticed that taking note of the difficulties arising out of marital dispute between the parents for issuance of passport, the Court had come to rescue the persons by formulating certain guidelines.

6. The High Court of Kerala reported in the case of ***Chaitanya S.Nair (Minor) rep. by Mother and Legal Guardian, Krishna Kumari Radhakrishnan Nair Vs. Union of India, Represented by Secretary to Government of India and others*** reported in **2022 SCC OnLine Ker 1177** has formulated the following guidelines to be followed:

“25. Since the petitioner was born in India and her domicile of origin is India and when her biological father continues to be an Indian citizen, the objection raised by the respondents in issuing an Indian Passport, based purely on her mother being an American citizen is, to say the least, odious and legally unsustainable. The observations of this Court in Prashanth Sathyavan v. Sindu George (2015 SCC OnLine Ker 15968) that “Father of the child being an Indian Citizen, it could well be stated that child can be issued with Indian Passport” is apt in this context.



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26. In view of the above deliberations, this Court is of the view that merely because one parent acquired the citizenship of another country or if one parent is not a citizen of India, will not by itself, disentitle a child born in India and whose other parent is an Indian citizen to be issued with an Indian passport. Therefore, Petitioner is entitled to be issued with an Indian passport.

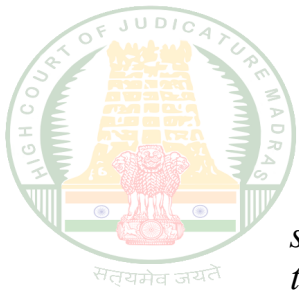
(iii) Whether the passport can be issued mentioning only the name of the legal guardian? 27. During the course of arguments, it was submitted by the learned counsel for the petitioner that, since the biological father has an objection in including the name of the stepfather in the passport, he confined his submission for including the name of the legal guardian in the passport. The receipt of acknowledgement of the application for the passport issued by the respondents provide columns for incorporating the name of the mother as well as that of the guardian and not that of the father. Further, in the website of the Ministry of External Affairs, Government of India relating to the passport and Visa Division, the following frequently asked questions have been mentioned. Since this is maintained by the Ministry of External Affairs itself, some of the questions have relevance and they are extracted as below:

Q1 : Exclusion of father/mother name from passport of minor in single-parent custody

A : 1. The online passport application form now permits that an applicant may provide the name of father or mother or legal guardian, i.e., only one parent and not both. This would enable single parents to apply for passports for their children and get passport(s) issued where the name of either the father or the mother is not required to be printed at the request of the applicant.

2. In case of minor children of unwed single parent, the name of father or mother is not to be mentioned in the passport application and in the passport, in case of unwed parents submitting Appendix-12, name of both the parents is to be mentioned in the application form and in the passport.

3. In case of minor children of married parents, the name of father/mother shall be furnished by the other single parent having the custody of the child, irrespective of the status of their marriage, such as, divorced, divorce pending,



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separated or deserted, with or without visitation rights to the estranged parents.

Q2 : Divorce pending cases

A. In case divorce is still pending before the court, the applicant's parent should furnish or obtain permission from the court to apply for a passport for the child without the consent of the other parent of the child or provide declaration in form of Annexure-C with applicable reason. In pending divorce cases, where the single parent with child is already working/staying abroad, the child requires a passport for its continued stay abroad.

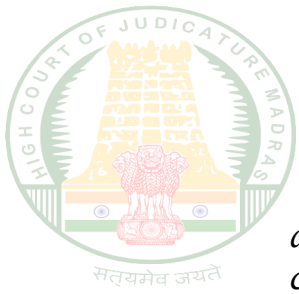
Q3 : Single divorced parent with exclusive custody of child without visitation rights for the other parent.

A : Where the custody of the child has been given exclusively to either parent without any visitation rights to the other parent, the question of obtaining consent of the other parent would normally not arise. A certified copy of the court order has to be submitted with the application and Annexure 'C' signed by the single parent.

Q8 : Annexure 'C' and 'D' : Their applicability and differentiation:

A : 1. **Annexure 'C'** : This declaration is applicable in cases where for any reason whatsoever the married parent applying for passport for the minor child is not able to obtain the consent of the other parent for obtaining passport for the child. The reasons also include - wilful denial of consent by the estranged parent; desertion; absence of communication between the divorced/not divorced but separated parents, ex-parte divorce proceedings etc., but exclude cases where both the parents are involved in divorce proceedings in which case, the permission of the court or consent of both the parents in Annex 'D' is required.

2. **Annexure 'D'** : This is for all normal cases where both the parents have to sign Annexure 'D'. Both parents or either parent with passports of both the parents shall be present at the time of issue of fresh passport or reissue of passport to the minor children or one parent with the passports of both the parents. This Annexure is also



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applicable to a single parent who has got full custody of the child and without any visitation rights to other parent (judgment to be verified); seaman/sailor spouse who are unable to sign Annexure D; unmarried parents submitting an affidavit as per Appendix-12.

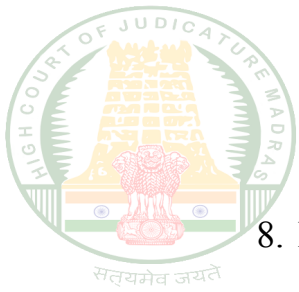
28. Parents of the petitioner had divorced by mutual consent and the custody of the petitioner was given to the mother. Though the biological father has been given visitorial rights, that right is at the convenience of the parties. The third respondent has submitted in Court that he has no objection to the child being taken abroad by the mother, and to live there. None of the parties could bring to the notice of this Court any legal prohibition in incorporating the name of a non-citizen as the legal guardian in the passport of a minor child. In view of the above, this Court holds that the passport of the petitioner can be issued with the name of the mother as legal guardian.

29. While considering the issues mentioned, this Court was mindful of the fact that the petitioner, though a minor and a child, is still “someone, even today”. Petitioner's right to travel, her right to enjoy her nationality and her right to enjoy her citizenship cannot be ignored.

30. In conclusion, this Court is of the opinion that petitioner is entitled to be issued with an Indian passport with the name of her mother endorsed not only as a mother but even as the legal guardian in the passport to be issued.

31. Therefore, there will be a direction to the second respondent to process the application filed by the petitioner, receipt of which is produced as Ext.P4, based upon the observations made in the judgment, as expeditiously as possible, at any rate, within a period of three weeks from the date of receipt of a copy of this judgment.”

7. Following the decision of the High Court of Kerala in the case of **Chaitanya S.Nair (Minor)** stated supra, an order was passed in the case of **Minor. Miss.Paveshja R.N. Vs. The Regional Passport Officer and others (W.P.NO.1433 of 2024, dated 24.09.2024).**



8. In the recent decision of this Court dated 18.06.2025 in the case of

J.Revathy Vs The Government of India Rep by its Secretary Ministry of

External Affairs and others (W.P.No.21709 of 2025), this Court observed as

under:

“6.In the considered view of this Court, the application submitted by the petitioner seeking for passport has to be processed independently. It is not necessary for a wife to get the permission of her husband and take his signature before applying for a passport before the authority. This insistence made by the 2nd respondent shows the mindset of the society in treating woman who are married as if they are chattel belonging to the husband. It is quite shocking that the passport office is insisting for the permission of the husband and his signature in a particular form in order to process the application submitted by the petitioner for passport. Already the relationship between the petitioner and her husband is in doldrums and the 2nd respondent is expecting the petitioner to get the signature of the husband. Virtually, the 2nd respondent is insisting the petitioner to fulfill an impossibility.

7.The petitioner after marrying the above said Mohanakrishnan does not loose her individuality and a wife can always apply for passport without the permission or signature of the husband in any form. The practice of insisting for permission from the husband to apply for passport, does not augur well for a society which is moving towards woman emancipation. This practise is nothing short of male supremacism.

8.In the light of the above discussion, there shall be a direction to the 2nd respondent to process the application submitted by the petitioner and issue passport in the name of the petitioner on the petitioner satisfying the other requirements. This process shall be completed by the 2nd respondent within a period four weeks from the date of receipt of copy of the order.”



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9. Since there is no feasibility of obtain Form D, as both parents are not residing in India, I am inclined to direct the first respondent to renew the passport of the respective petitioners based on the applications filed for renewal/issuance of fresh passports already on file.

10. As these applications have been closed and were filed through online, liberty is given to the mother of the petitioners to apply afresh for the renewal of passports. If such application is filed, the first respondent shall issue/renew the passports without insisting on Form D, as expeditiously as possible considering the fact that the petitioners are now staying with their grandmother, who is unable to take care of them.

11. These writ petitions stand disposed of. There shall be no order as to costs.

10.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sn

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C.SARAVANAN, J.

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