



W.P.(MD)No.21024 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 08.01.2025

PRONOUNCED ON : 28.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

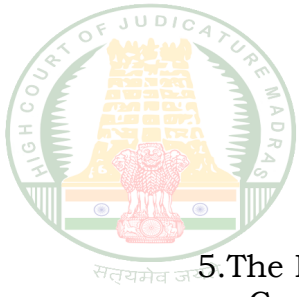
W.P.(MD)No.21024 of 2024

K.Sastha Deavi

... Petitioner

Vs.

- 1.The Dy. Secretary to Government,
Public (Foreigners-II) Department,
Secretariat,
Chennai-600 009.
- 2.The Regional Passport Office,
Tiruchirappalli,
2nd Floor, Corporation Commercial
Complex,
7th Cross Street, Thillai Nagar,
Trichy-620 018.
- 3.The Inspector of Police,
Q Branch,
DGP Office Complex,
Chennai-600 004.
- 4.The Foreigners Regional Registration
Office,
No.26, Haddows Road,
Sastri Bhavan,
Chennai-600 006.



W.P.(MD)No.21024 of 2024

5.The Principal Secretary to the
Government,
Home Department,
Secretariat, Chennai.

6.The Under Secretary of Government
of India,
Ministry of Home Affairs,
North Block, New Delhi-110 001.

... Respondents

*(R-5 is suo-motu impleaded vide Court order dated
26.11.2024 in W.P.(MD)No.21024/2024)*

*(R-6 is suo-motu impleaded vide Court order dated
08.01.2025 in W.P.(MD)No.21024/2024)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to forthwith return the petitioner's passport bearing No.M9172689, which has been wrongfully impounded on the ground of suspicion of nationality.

For Petitioner : Mr.N.Ravishankar Vallatharasu

For R-1 & R-5 : Mr.T.Amjad Khan,
Government Advocate

For R-3 : Mr.K.Gnanasekaran,
Government Advocate (Criminal
side)

For R-2, R-4 & R-6 : Mr.K.Govindarajan,
Deputy Solicitor General of India



W.P.(MD)No.21024 of 2024

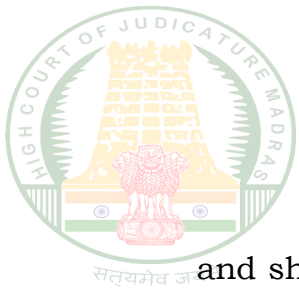
ORDER

WEB COPY

This writ petition is filed seeking to direct the 2nd respondent to forthwith return the petitioner's passport bearing No.M9172689 which has been wrongfully impounded on the ground of suspicion of nationality.

2.The petitioner is a citizen of India born on 18th November 1991 in Chennai, Tamil Nadu. Her Indian citizenship is rooted in her Indian heritage as she is the daughter of Indian parents, namely, Karunanandan and Rajeshwary. Her father Late.Thiru.Karunanandan who was born on 23rd March 1953 was an Indian citizen as evidenced by his Indian passport bearing No. T464115. However, the said Thiru.Karunanandan passed away on 7th February 2012.

3.While being so, the petitioner's mother Tmt.Rajeshwary was diagnosed with a severe mental disorder and was undergoing treatment at Aram Care Foundation in Chennai and she also passed away on 30.05.2024 at Chennai. On the night of 20th / 21st December 2018, the petitioner's passport bearing No.M9172689 was seized by the Bureau of Immigration during her departure clearance for a flight to Doha at the Chennai Airport. At the time of seizure, no specific reason was provided



W.P.(MD)No.21024 of 2024

and she was instructed to report to the 4th respondent office within two working days as her passport had been forwarded for further investigation.

4. On 22nd December 2018, she visited the 4th respondent, that is, the Foreigners Regional Registration Office at Shastri Bhavan, Nungambakkam, Chennai, to enquire about the status of the petitioner's impounded passport. The officials advised her to contact the Tiruchirappalli Regional Passport Office where her passport was issued. Accordingly, she visited the Tiruchirappalli Regional Passport Office, that is, the 2nd respondent and submitted all necessary documents as required by them. However, she received a show-cause notice dated 04.01.2019 from the 2nd respondent, informing her that her passport has been impounded due to suspicion regarding her nationality.

5. The show-cause notice required her to appear before them and provide clarification along with all necessary documents for the investigation within 15 days. In response to the same, the petitioner made a formal visit to the 2nd respondent's office and submitted all relevant documents, including her birth certificate, educational certificates, PAN card and proof of residence to establish her Indian nationality along with a representation requesting to release her

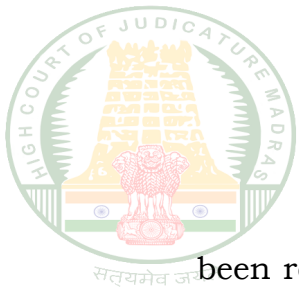


W.P.(MD)No.21024 of 2024

passport which was impounded. Though in terms of their direction, the petitioner submitted all the documents of her father including his passport, PAN card, voter's card, ration card, legal heir certificate and death certificate, due to her mother's serious health condition, she was unable to provide any of her documents related to her nationality.

6.Despite explaining her mother's health condition and her own circumstances, the officials at the 2nd respondent Office insisted that her case could not proceed without verifying her mother's nationality. She was later informed by the 2nd respondent that they have sent a letter to the Q Branch Office in Chennai, that is, the 3rd respondent, requesting verification of her parents nationality. However, due to no response from the 3rd respondent until the end of 2019, the 2nd respondent could not take any further action. Due to the pandemic situation in 2020, she had sent an E-mail to the 2nd respondent's help desk team in March 2020 requesting an update on the status of her file. In response to the same, on 9th March 2020, she received a communication stating that they were still awaiting response from the 3rd respondent.

7.Later, she received a SMS from the 2nd respondent indicating that her response to the show cause notice SCN/308039101/19 had

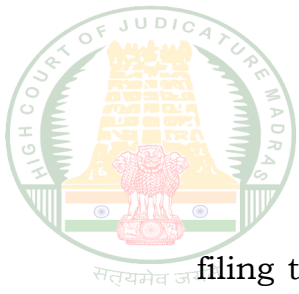


W.P.(MD)No.21024 of 2024

WEB COPY

been reviewed and deemed satisfactory. Pursuant to the same, she had sent a follow up E-mail on 11.05.2020 to the help desk team, reiterating the same details and requesting confirmation. However, on 12th May 2020, the help desk of the 2nd respondent informed her that they have not received any response from the 3rd respondent and hence the matter is on hold. Thereafter, the petitioner visited the 3rd respondent's office in Chennai on 24.12.2020, personally, where she was informed that they could not locate any records relating to her parents and were unable to provide further information. She was also informed that the Q branch was not responsible for verifying the nationality of citizens and advised to check back with the 2nd respondent for an update.

8.Claiming that the involvement of Q branch in the instant matter is unwarranted and that the Q branch is primarily responsible for intelligence and security related functions including counter-terrorism and maintaining public order, rather than routine verification of citizenship, the petitioner pressed the 2nd respondent to process her application. While being so, on 7th February 2022, the 1st respondent issued a letter to the 4th respondent directing to take appropriate action in the matter of the petitioner and the letter was marked to the petitioner. Despite this communication, no action was taken by the 4th respondent. Hence, the petitioner was left with no other option rather



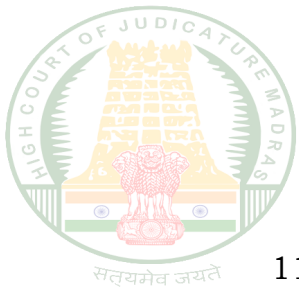
W.P.(MD)No.21024 of 2024

filing the writ petition seeking to direct the 2nd respondent to forthwith return her passport.

WEB COPY

9.Heard the learned counsel for the petitioner Mr.Ravi Shankar who categorically submitted that the petitioner is entitled for return of her impounded passport and the respondents cannot keep on holding her passport without proper reason and pressed for allowing the writ petition.

10.The learned Deputy Solicitor General of India Mr.K.Govindarajan appearing for the 2nd and 4th respondents on the basis of the counter affidavit filed by the 2nd respondent submitted that by verifying the records pertaining to the petitioner's passport, it is revealed that the petitioner applied for issuance of fresh passport vide file in reference No. TR-2068173581514 by indicating her place of birth as Chennai. At that time, she also produced proof of identity documents such as Aadhaar card, birth certificate and 10th Mark sheet. Only after scrutiny of the submitted documents, the application was scrutinized in accordance with law and the passport No.M9172689 dated 01.05.2015 valid up to 30.04.2025 was issued to the petitioner after receipt of a clear police verification report.

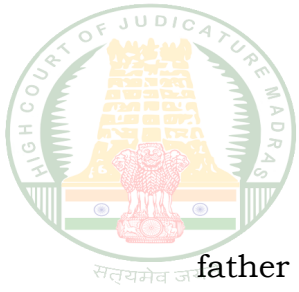


W.P.(MD)No.21024 of 2024

WEB COPY

11.He further submitted that a letter was received from the 4th respondent on 03.01.2019 stating that the petitioner had approached Chennai Airport for departure immigration clearance to Doha by Indigo Airlines flight. Interrogation with the petitioner revealed that she is a Sri Lankan national and her parents, namely, father Thiru. M. Karunanandan and mother Tmt.K.Rajeshwari, were Sri Lankan nationals. Her parents had arrived in India during 1981. Her father and mother expired in the year 2012 and 2024 respectively. Hence, the passport No.M9172689 dated 01.05.2015 was seized by the immigration authorities at the airport and the same was forwarded to the office of the 2nd respondent passport office at Trichy for appropriate action.

12.Further, in this regard a show cause notice was served to the petitioner on 04.01.2019 directing to furnish her explanation and supporting documents with regard to her citizenship certificates. In reply, the petitioner furnished explanation with a copy of letter dated 24.12.2018 addressed to the 4th respondent along with a copy of her birth certificate, father's passport copy, family card, legal heir certificate, father's death certificate and PAN card and mother's medical treatment certificates stating that her father was born in Adakkampatti village in Tiruchirappalli district, whereas, she had informed that her

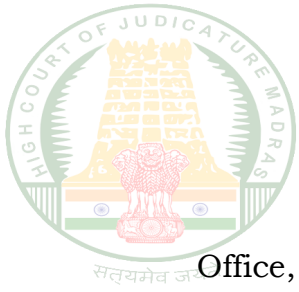


W.P.(MD)No.21024 of 2024

father was born in Sri Lanka during the interview at the Airport on 21.12.2018. On examination of the documents produced by her and the reply, it revealed that her father had obtained Indian passport only on 22.12.1982 after his arrival in India during the year 1981. Her father's passport No.T464115 dated 22.12.1982 was valid up to 21.12.1992. Hence, the 2nd respondent Office is unable to ascertain the nationality of her parents before 1982.

13.The petitioner's father's travel documents and previous passport details are not available with the application. The details of travel documents on which the petitioner's father arrived in India was not furnished by the petitioner. Hence, the 2nd respondent Office is unable to ascertain whether her father has obtained Sri Lankan citizenship or not. Therefore, the matter was referred to the Superintendent of Police, Q Branch CID, Chennai, on 10.01.2019 to confirm the nationality of the petitioner followed by reminder letter dated 20.02.2019.

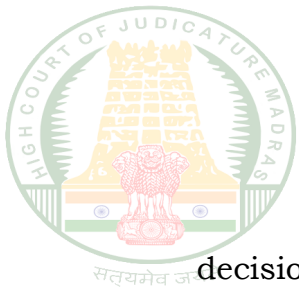
14.However, vide letter No.C.6No. 4778 / X / 2019 / C dated 14.05.2019 received from the Superintendent of Police, Q Branch CID, Chennai, it was informed that the verification will be done by the Revenue Department as per the policy note given by the Revenue Department. Hence, the same was forwarded to the District Collector



W.P.(MD)No.21024 of 2024

Office, Tiruchirappalli, to conduct necessary verification and send the reply. The 2nd respondent Office received a reply from the District Collector, Tiruchirappalli, vide letter No.D3/75/2019 dated 30.01.2020 stating that the practice of issuance of Nationality Certificate is not being carried out by them and only the residential certificate is issued by Revenue Department till now. The nationality verification process is being carried out by Q Branch CID only and they submitted the report directly to the 2nd respondent and no role is vested with the Revenue Department regarding nationality verification.

15.Further, he insisted that the earlier practice done could be followed and the report of the Q Branch could be obtained by the 2nd respondent Office for verifying the petitioner's nationality. In view of the letter received from the District Collector, Tiruchirappalli, dated 30.01.2020, the 2nd respondent Office, once again referred the case to the Superintendent of Police, Q Branch Chennai, to verify the nationality of the applicant followed by reminder letters dated 08.07.2020 and 24.09.2021. In response, the Q Branch CID, Chennai, furnished reply dated 01.03.2022 stating that the subject on the nationality verification is not being dealt with by the Q Branch CID. Therefore, the matter was once again referred to the District Collector, Tiruchirappalli, on 07.03.2022 requesting to intimate whether any

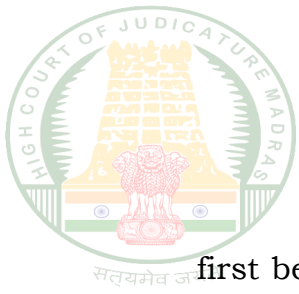


W.P.(MD)No.21024 of 2024

decision has been received from the Principal Secretary to the Government Home Department, Secretariat, Chennai, for verification of nationality / citizenship of the applicant. However, the reply is still awaited.

16. Thereafter, the learned Deputy Solicitor General of India categorically contended that though the statutory authorities have issued family card, Aadhaar card and voter ID, the same cannot be accepted for the purpose of issuance or renewal of passport and the same has been already confirmed by this Court in the case of ***Divya .vs. the Chief Immigration Officer in W.P.No.16308 of 2018*** in which this Court had held that mere possession of family card, Aadhaar, PAN card and voter ID will not confer Indian citizenship on persons belonging to other nations unless the conferment is made by competent authority. Categorically submitting that the petitioner's claim that the first respondent has not taken any steps to return the passport is not acceptable, he insisted that in the absence of any proper document as submitted by the petitioner to prove her citizenship, the question of returning her passport will not arise.

17. He further pointed out that when a person apply for passport and wherever citizenship issue creeps in, the same has to be settled

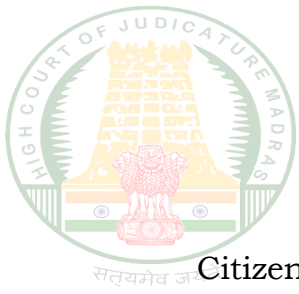


W.P.(MD)No.21024 of 2024

first before the passport application could be considered for issuance of passport like stateless person / illegal immigrant resident in India / children born in India to such persons / children born abroad to parents of Indian origin (PIOs) / children whose either parent is a foreign nation etc., and accordingly he pressed for dismissal of the writ petition.

18.The learned Government Advocate Mr.Gnanasekaran on the basis of the counter affidavit filed by the 3rd respondent submitted that several letters were received by the 3rd respondent Superintendent of Police, Q branch CID, Chennai, from the second respondent seeking to verify the nationality of various individuals. However, the same is not warranted since the said power is entrusted to the Under Secretary to the Government of India as per the provisions of the Citizenship Act, 1955. This aspect has already been rightly clarified by the third respondent vide letter dated 07.05.2019 to the second respondent. That apart, the Inspector General of Police, Intelligence, vide letter No.C.6.No. 13216/X/2019/C dated 31.08.2020 clearly clarified that the Q branch CID cannot conduct nationality verification.

19.Therefore, it could be appropriate to entrust the said verification to the competent authority as per the scheme of the

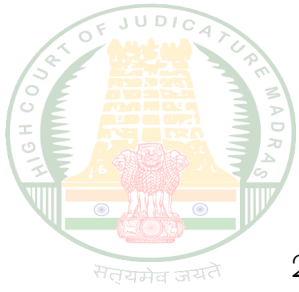


W.P.(MD)No.21024 of 2024

Citizenship Act, 1955, and the confirmation of nationality can only be done by the Under Secretary to the Government of India as per the provisions of the Citizenship Act, 1955, and dragging on the third respondent CID into the aspect of confirmation of nationality is unwarranted.

20.The learned Government Advocate appearing for the fifth respondent on the basis of the status report filed on behalf of the Additional Chief Secretary to the Government, Home, Prohibition and Excise Department, submitted that, the State Government has already issued clarification address to the District Collector of Tiruchirappalli district and has also marked a copy to the Director General of Police, all District Collectors, all Commissioners of Police and all Superintendents of Police in Government letter No. 32152/Citizen/2019-11, dated 03.08.2023 that issuance of nationality certificate can be done by the Revenue Department and the verification of nationality can be done by the police department and accordingly the third respondent is responsible for verification of the nationality.

21.Heard the learned counsels on either sides and carefully perused the materials available on record.

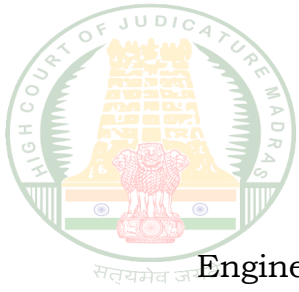


W.P.(MD)No.21024 of 2024

WEB COPY

22.The case of the first, second and fourth respondents is that, while the petitioner arrived at Chennai Airport on 21.12.2018 for travelling to Doha by Indigo Airlines No.6E 1707 with the strength of her Indian passport No.M9172689, the petitioner voluntarily admitted to the immigration officers during their interrogation that her parents are Sri Lankan nationals and they entered into India in the year 1981. Only on that basis the petitioner's passport was seized by the immigration officer on suspicious grounds about her nationality and the same was sent to the second respondent regional passport officer Tiruchi for re-verification where the said passport was issued and to verify the genuineness of her nationality. From the said date the petitioner was made to run between pillar and post by the first, second, third and fourth respondents, for the purpose of directing the second respondent to return her passport bearing No.M9172689.

23.No doubt, a careful perusal of the birth certificate issued by the City Health Officer of the Greater Chennai Corporation on 31.03.2022 would reveal that she was born on 18th November 1991 to Tmt. K.Rajeshwari and Thiru. M.Karunanandan at Alaya Hospital, Madras - 600 026. She has also duly produced her matriculation school leaving certificate and other mark sheets including her Aadhar ID, PAN card, family card, voter ID etc. She is a holder of a degree of Bachelor of



W.P.(MD)No.21024 of 2024

Engineering in Electrical and Electronic Engineering who had secured the said degree from the Anna University on April 2013. After impounding her passport when the second respondent required her to produce the relevant documents with respect to the citizenship of her parents, though she managed to produce all the documents pertaining to her father Thiru.Karunanandan, she failed to produce any of the documents related to her mother Tmt.Rajeshwari. Hence, her passport was kept impounded despite her several requests to release the same and return back to her and she was made to approach the third and fourth respondents repeatedly seeking to confirm her nationality.

24.Since even after a passage of nearly 6 years from the date of seizure of her passport, the same has not been returned back to her with no other option she has filed this writ petition seeking to direct the second respondent to return back her passport to her. It is needless to state that in the absence of her passport she cannot freely travel abroad and pursue any job opportunity in abroad.

25.The second respondent had required the Superintendent of Police, Q branch CID, Chennai for verifying the nationality status of the writ petitioner. However, the third respondent Superintendent of Police, Q branch CID responded to the second respondent by communicating

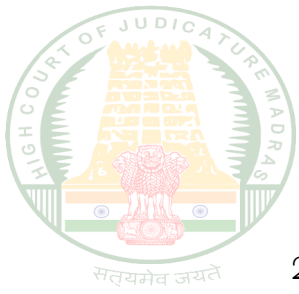


W.P.(MD)No.21024 of 2024

that it is not the responsibility of the third respondent to verify the nationality status, but it is the responsibility of the revenue department of the state of Tamil Nadu to verify the nationality status. The said aspect was also clarified by the Deputy Secretary to the Government, Home (Citz.II) Department Secretariat, Chennai - 9, vide letter No. 32152/Citizen/2019-11 dated 03.08.2023 by observing that the nationality certificate is one among the certificate being issued by the Revenue authorities to a citizen for getting passport, visa etc., after following the procedures, detailed below:

(i) The Village Administrative Officer and the Revenue Inspector would check and verify the petitioner's domicile and other records, namely, ration card, EPIC, census, places of immovable properties and tax paid receipts and also through enquiry to ensure their nationality

(ii) Based on the report of the VAO and the Revenue Inspector, the Thasildar will issue the nationality certificate and on making such observation the Deputy Secretary to the Government reiterated that the issuance of nationality certificate can be done by the Revenue Department and the verification of nationality can be done by the police department and the said communication was also issued to the District Collector of Tiruchirappalli district.



W.P.(MD)No.21024 of 2024

26.Despite the issuance of the said communication on 03.08.2023, the application of the petitioner was kept in abeyance both by the third respondent as well as the revenue authorities of the Tiruchirappalli district.

27.Now the pertinent question which has to be decided in the *lis* in hand is as to who is the authority who could confirm the nationality whenever a cloud arises as to the citizenship of a person residing within India. Section 13 of the Citizenship Act, 1955, deals with certificate of citizenship in case of doubt and the same is extracted as follows:

“13.Certificate of Citizenship in case of doubt. - The Central Government may, in such cases as it thinks fit, certify that a person with respect to whose citizenship of India a doubt exists, is a citizen of India; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.”

28.Rule 37 of the Citizenship Rules, 2009, makes it clear that certificate of citizenship in case of doubt under Section 13 may be



W.P.(MD)No.21024 of 2024

issued in Form XXXIII and shall be signed by an officer not below the rank of under Secretary to the Government of India. The said form is extracted hereunder for the benefit of this case:

FORM XXXIII

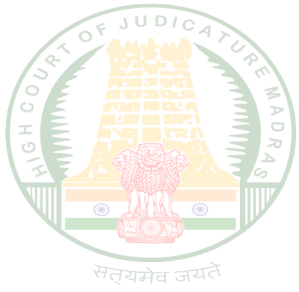
[Refer rule 37]

THE CITIZENSHIP RULES, 2009

Certified that whose particulars and photograph are furnished below, has satisfied the conditions laid down in the Constitution of India / Citizenship Act, 1955 and is accordingly recognised as a citizen of India.

PARTICULARS

1. Age
2. Height
3. Hair
4. Eyes
5. Special peculiarities and identification marks
6. Name and Surname
- (in BLOCK LETTERS)
7. Date of Birth
8. Nationality of origin
9. Surname and forenames of father



W.P.(MD)No.21024 of 2024

(in BLOCK LETTERS)

WEB COPY 10.Occupation or profession

11.Present address

Photograph

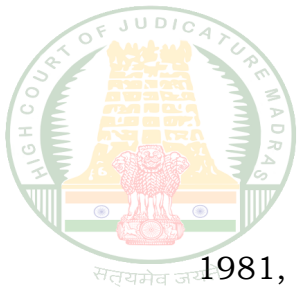
Signature of the grantee

Place of Issue

Date of Issue

.....
Signature of the Issuing Authority

29.In the instant case, the petitioner is already holding an Indian Passport bearing No.M9172689 which is valid till 30.04.2025. However the same was impounded by the immigration officials during their interrogation with her on 21.12.2018 while she was travelling to Doha by Indigo Airlines No. 6E 1707 with the strength of her Indian passport. The oral admission made by the petitioner during the interrogation of the immigration officials at Chennai Airport on 21.12.2018 that her parents were Sri Lankan nationals who entered into India in the year



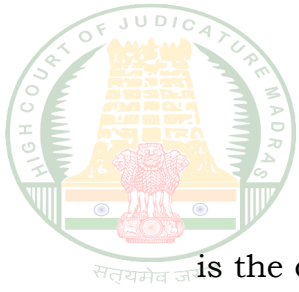
W.P.(MD)No.21024 of 2024

WEB COPY

1981, her passport came to be impounded and was sent to the second respondent passport office where her passport was issued for re-verification and to verify the genuineness of her nationality.

30.However, the second respondent required the third respondent to verify the nationalities of the writ petitioner. But the third respondent made it clear that it is not their responsibility to check the nationality status of any citizen and it is the responsibility of the Revenue authorities of the district concerned. The same is also reiterated by the Deputy Secretary to the Government (Home) citizen-II department vide communication dated 03.08.2023 to the District Collector, Tiruchirappalli. However, despite the communication received from the Deputy Secretary to the Government dated 03.08.2023, the District Collector, Tiruchirappalli district, did not take any effective step through his revenue authorities to verify the nationality status of the petitioner.

31.The Citizenship Act, 1955, deals with the certificate of citizenship in case of doubt. When section 13 of the Citizenship Act, 1955, is read with Rule 37 of the Citizenship Rules, 2009, it would transpire that, whenever a doubt arises as to the citizenship of a person who claims to be a citizen of India, it is the Central Government which



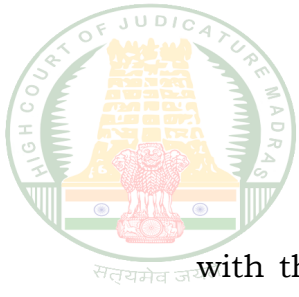
W.P.(MD)No.21024 of 2024

WEB COPY

is the competent authority to certify that a person with respect to whom a doubt exists, if he is a citizen of India or not, by issuing a certificate under this section of the Citizenship Act, 1955, and an officer not below the rank of Under Secretary to the Government of India shall issue a certificate of citizenship in case of doubt in Form No. XXXIII provided in schedule I of the Citizenship Rules, 2009.

32.In the instant case, though it is claimed by the second respondent that the writ petitioner had admitted that her parents were of Sri Lankan origin, at the time of verification as required by the second respondent to produce the relevant documents, she was able to produce only the documents pertaining to her father but not her mother. Hence, this Court is of the considered view that neither the Inspector of Police, Q branch CID, Chennai, nor the revenue authorities are the competent authorities who could issue a certificate of citizenship in case of doubt.

33.Since this is a clear case of doubt of citizenship, it is only an officer who is not below the rank of an Under Secretary to the Government of India who would be competent to issue a certificate of citizenship. Under such circumstances, this Court is of the considered view that the first respondent is the competent authority who could deal



W.P.(MD)No.21024 of 2024

with the matter in hand. Accordingly, the writ petitioner is directed to submit all the relevant documents before the first respondent for further action and the first respondent is directed to deal with the case of the writ petitioner under Section 13 of the Citizenship Act, 1955, read with Rule 37 of the Citizenship Rules, 2009 and pass appropriate orders in accordance with law within a period of twelve (12) weeks from the date of receipt of copy of this order.

34.Accordingly the writ petition stands allowed. No costs.

28.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The Dy. Secretary to Government,
Public (Foreigners-II) Department,
Secretariat,
Chennai-600 009.

2.The Regional Passport Office,
Tiruchirappalli,
2nd Floor, Corporation Commercial
Complex,
7th Cross Street, Thillai Nagar,
Trichy-620 018.



W.P.(MD)No.21024 of 2024

3.The Inspector of Police,
Q Branch,
DGP Office Complex,
Chennai-600 004.

4.The Foreigners Regional Registration
Office,
No.26, Haddows Road,
Sastri Bhavan,
Chennai-600 006.

5.The Principal Secretary to the
Government,
Home Department,
Secretariat, Chennai.

6.The Under Secretary of Government
of India,
Ministry of Home Affairs,
North Block, New Delhi-110 001.



WEB COPY



W.P.(MD)No.21024 of 2024

L.VICTORIA GOWRI, J.,

Sm1

W.P.(MD)No.21024 of 2024

28.04.2025