

W.P.(MD)No.21127 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 21.01.2025

Delivered On : .04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.21127 of 2024

Roshini

... Petitioner

Vs.

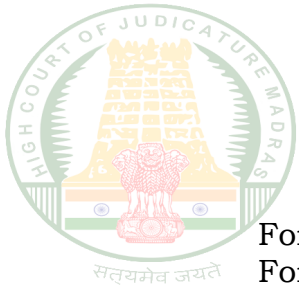
1.The Regional Passport Officer,
O/o/ Regional Passport Office,
Trichy District.

2.The Union of India Through its Secretary,
O/o. Ministry of Home Affairs,
Near Pragati Madien,
New Delhi – 110 001.

3.The Director of Refugees and Rehabilitation,
O/o. Refugees and Rehabilitation,
Ezhilagam,
Chennai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent no.1 to re-issue passport to petitioner in application file bearing no.TR2075843934923 for the period of 10 years, by considering the petitioner's representation dated 20.07.2024.



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For Petitioner : Mr.S.M.A.Jinnah
For Respondents 1 & 2 : Mr.K.Govindarajan
Deputy Solicitor General of India
For 3rd Respondent : Mr.S.Kameswaran,
Government Advocate

ORDER

This Writ Petition is filed, seeking to direct the first respondent to reissue the passport in application file No.TR-2075843934923 for the period of 10 years, by considering the petitioner's representation dated 20.07.2024.

2.The petitioner and her family members belong to Sri Lankan nativity. Though her parents belong to Sri Lanka, they have obtained overseas citizenship of India. The petitioner was born and brought up in Sri Lanka and during 1993, she travelled to India along with her parents and got married to one Muthupandiyan on 29.01.1993, following Hindu rites and customs, following which her marriage was also registered before the District Registrar of Tiruchirappalli, bearing Registration No.83 of 1993. Out of the said wedlock, she was blessed with two children, a son and a daughter and she has been residing in India along with her family members since 29.01.1993 till date.

3.But her parents continued to live in Sri Lanka. Therefore, for the purpose of visiting her old aged parents, she had applied for an Indian



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passport and managed to receive the same on the basis of the identity proof issued by the State and Central Government, like voter ID, smart card, Aadhar card, etc. Thus, the petitioner is the holder of Indian passport bearing Passport No.J2903086. The said passport expired on 07.08.2021. Hence, she made an application before the first respondent to re-issue the same. However, the same is not considered by the first respondent. On the other hand, she was instructed by the first respondent to obtain Indian Citizenship Certificate for the purpose of re-issuance of passport in her name. Hence, this Petition came to be filed.

4.The learned counsel for the petitioner submitted that already the petitioner is a holder of Indian passport bearing No.J2903086 and the present application is only for re-issuance of the same. She had married an Indian, namely, Thiru.Muthu Pandian on 29.01.1993 and she is continuing to live in India along with her husband and children in India till date and only for the purpose of visiting her parents who are living in Sri Lanka, she had already availed an Indian passport by the strength of the various documents issued in her favour by the Central as well as the State Government and accordingly, the re-issuance of passport to her can be done in terms of Section 20 of the Passport Act, 1967, and pressed for allowing the Writ Petition.

5.Per contra, the learned Deputy Solicitor General on the basis of the



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counter affidavit filed by the first respondent submitted that, Mrs.Roshini Muthupandian, w/o. Muthupandian, born on 10.10.1972, is residing at No. 10/1, Vathukara street, Woraiyur, Tiruchirappalli Urban – 620003, with her husband and children. At the first instance, she made an application for passport, suppressing the information regarding her nationality, date and place of birth vide passport application file Reference No.TR2074346121122 and managed to obtain a passport bearing No.J2903086 dated 08.08.2011.

6.On expiry of the same, now she had applied for re-issuance of passport vide file No.TR2075843934923 dated 05.10.2023, at the Passport Seva Kendra, Trichy, in continuation of the passport No.J2903086 dated 08.08.2011. The petitioner had already held Sri Lankan passport No.J0631691 dated 15.09.1989 valid up to 14.09.1994, which was issued from Colombo by the Sri Lankan Government. The said passport was submitted to the first respondent office vide file Reference No.TRYE00913205 under re-issue category and it was requested to issue an Indian passport. However, the said application was closed after returning her Sri Lankan passport based on her request to close the application.

7.Thereafter, the petitioner was instructed to contact the Embassy of Sri Lanka in this regard. However, the petitioner had applied for issuance of fresh passport during the year 2011, by suppressing all the aforesaid facts. The application was processed and the passport No.J2903086 dated



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08.08.2011, was issued, after receipt of police verification report during the year 2011, on the basis of the false information given by the petitioner suppressing the information regarding nationality, place and date of birth. Subsequently, after a period of 10 years, the petitioner further applied for re-issuance of passport vide file Reference Nos.TR2074346121122 and TR2075843234923 without disclosing her Sri Lankan identity and managed to obtain re-issuance of passport twice earlier.

8.The first respondent office called for explanation from the petitioner and she furnished a reply on 10.04.2024, stating that her father and grandfather were born at Adikampatti Village, Trichy District, and hence, requested to issue passport to her accepting her explanation. The petitioner also furnished a representation dated 20.07.2024, stating that her family members were of Indian origin and that her grandfather travelled to Sri Lanka for business purpose and lived there. She also claimed that her father and mother also obtained Sri Lankan nationality and are living there and they have got OCI card as well.

9.Heard the learned counsels on either side and carefully perused the materials available on record.

10.The petitioner was born at Sri Lanka on 10.10.1972 and was brought up there. However, during her visit to India on the first week of

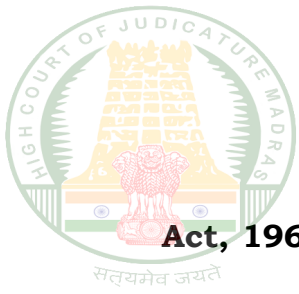


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January 1993, she married one Mr.Muthupandiyar, s/o. Krishnamurthy, within few days and their marriage was also registered in the District Registration Office, at Trichirappalli, following which she managed to obtain a voter ID and ration card. The petitioner had been living in India for more than 31 years after marriage and therefore, she is of the opinion that she could get an Indian citizenship automatically after marrying an Indian citizen. Therefore, the petitioner requested to issue temporary travel document based on her explanation.

11.It is a settled proposition of law as held by this Court in W.P.No. 16308 of 2018 in the case of *Divya versus the Chief Immigration Officer* that '*mere possession of family card, Aadhar, PAN card and voter ID will not confer Indian citizenship on persons belonging to other nations unless conferment is made by the competent authority*'. Though the petitioner had obtained Indian passport during the year 2011 and subsequently, renewed the same twice under the provisions of the Passport Act, 1967, she managed to obtain the same by suppressing her Sri Lankan passport and nationality during the aforesaid three occasions.

12.In view of the same, this Court is of the considered view that furnishing false information or suppressing material information with the view to obtain a passport or travel document is an offence under the provisions under **Sections 10(3)(b), 12(1)(a) and 12(1)(b) of the Passport**



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Act, 1967. No doubt, the petitioner was holding a Sri Lankan passport and hence, a Sri Lankan National. Though she had married an Indian, she had never ever applied for an Indian citizenship. Managed to obtain an Indian passport earlier only by suppressing the material facts as to her nationality. It is needless to state that whenever a person applies for passport and as and when the question of citizenship is in doubt, the issue of citizenship has to be settled at the first instance before issuance of passport application.

13.In view of the same, since it has been established that the petitioner was a holder of Sri Lankan passport and obviously, being a Sri Lankan National, though she had married an Indian for the past more than 31 years, it is necessary for her to obtain a citizenship certificate by getting her citizenship registered in the manner known to law with the Ministry of Home Affairs before considering her application for re-issuance of passport, even if the same could be appreciated under Section 20 of the Passports Act, 1967.

14.Accordingly, this Court is of the considered view that the petitioner's identity as to her nationality has to be established at the first instance and unless the question of her citizenship is settled, she cannot make an application for passport. Section 20 of the Passports Act, 1967, makes it clear that even if a person is not a citizen of India, a passport or travel document may be issued, if the Government is of the opinion that it is



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necessary to do so in public interest. However, in the instant case, the question of public interest will not arise.

15. Accordingly, the Writ Petition fails and the same is dismissed.

There shall be no order as to costs.

.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

1. The Regional Passport Officer,
O/o/ Regional Passport Office,
Trichy District.
2. The Union of India Through its Secretary,
O/o. Ministry of Home Affairs,
Near Pragati Madien,
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3. The Director of Refugees and Rehabilitation,
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L.VICTORIA GOWRI, J.

Mrn

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