

(2016) 07 MAD CK 0099
In the Madras High Court
Case No : W.P. (MD) No. 13412 of 2016

D. Thiagarajan

APPELLANT

Vs

The Regional Passport Officer

RESPONDENT

Date of Decision : 29-07-2016

Acts Referred:

Citation : (2017) 170 AIC 840 : (2016) 6 MLJ 578

Hon'ble Judges : Mr. M. Venugopal, J.

Bench : Single Bench

Advocate : Mr. K. Mahendran, Advocate, for the Petitioner; Mr. N. Shanmuga Selvan, Advocate, for the Respondents No. 1; Mr. S. Chandrasekaran Government, Advocate, for the Respondent Nos. 2 and 3

Final Decision : Disposed Off

Judgement

Mr. M. Venugopal, J.— Heard both sides.

2. By consent, the main writ petition itself is taken up for final disposal.

3. No counter is filed on behalf of the respondents.

4. According to the petitioner, he is a B.Tech (Program) Graduate and he is doing intensive traditional cultivation of his own land and also that he is an active member in the Tanjore Fish Farming Development Agency, Tiruvarur from the year 2009 onwards. Further, he had attended training in the Fish Training Centre in Chennai and a certificate was issued by the Principal, Fisheries Development Training Centre during the year 2009. He had also joined the course of B.F.Tech (Bachelor of Farm Technology), a three years course in open and distance learning at Tamil Nadu Agricultural University, Coimbatore in the year 2014 and yet to complete the course.

5. The plea of the petitioner is that during last year, there was a world level 19th Agriculture Trade Exhibition at Israel between April 28th and 30th of 2015 and that he paid a sum of Rs.1,25,000/- to the AMY Travels In. In turn, the agency,

through letter dated 29.01.2015 informed him that they have booked tickets to attend the Agri-Tech 2015. In fact, Israel Trade Fair, departure was on 26th April 2015 from Chennai and return on 3rd May 2015 in Cairo. After booking the tickets, he applied for the tourist visa from the 1st respondent/Regional Passport Officer, Trichirapalli and in passport application No.TR1078216603315 together with his passport. He was under the hope that the passport would be renewed and he would be allowed to attend the Agri-Tech 2015 Trade Fair 2015. But to his shock and surprise, the first respondent issued a file closure letter dated 27th March 2015, wherein, it was mentioned as under:

"Please refer to the passport application pending in this office in respect of Thiagarajan Duraiah, applicant file closure request. Adverse preview received due to court case pending. Advised to apply reissue with court judgment copy."

6. The version of the petitioner is that the second respondent/Superintendent of Police, Tanjavur sent a communication to the first respondent/Regional Passport Officer, Regional Passport Office, Trichirapalli, stating that a criminal case was registered against him in Cr.No.213 of 2014 in respect of the alleged offences under Sections 341, 506(ii) of I.P.C r/w 31 of the PPD L Act.

7. In this connection, the principal stand taken on behalf of the petitioner is that he is not involved in the criminal case and unfortunately, a case was registered against him on the ground that his brother being an Ex - MLA of the opposition political party. Under such circumstance, he made a request to the first respondent/Regional Passport Officer, Trichirapalli to issue the passport. But, unfortunately, the same was rejected on the ground that a criminal case is pending.

8. At this stage, the Learned Counsel for the Petitioner submits that the petitioner received a pamphlet from MM Natural Agricultural Farm at Oonsur, Mysore, Karnataka State, stating that with the help of the Quba Government, they have organised a tour program for Quba and Europe countries from 13.09.2016 to 27.09.2016, which includes 5 days in Quba, 3 days in Europe to visit the natural agricultural farm. In fact, the total expense for the Agricultural Tour comes about Rs.2,50,000/- and a person interested to join the said tour has to pay a sum of Rs.50,000/- in advance. Inasmuch as the petitioner being a Natural Agriculturist, he had decided to attend the tour and projected an application to the first respondent on 05.07.2016 for the grant of re-issuance of passport in continuation of Passport No.B2706242, dated 12.12.2015 along with earlier order obtained from this Court in W.P.(MD).No.5262 of 2015, dated 21.04.2015.

9. The real grievance of the petitioner is that although the first respondent/Regional Passport Officer, Regional Passport Office, Trichirapalli has received his application on 05.07.2016, on 18.07.2016, he refused for the grant of re-issuance of passport, based on the reason of pendency of criminal case in S.C.No.24 of 2015, on the file of concerned trial court. Apart from that, the first

respondent/Regional Passport Officer, Regional Passport Office, Trichirapalli, direct him to obtain an acquittal order from the concerned Court or took permission/exemption order from the concerned Court, where the case is pending or any Higher Court as well as an undertaking in writing as provided at Para 1(d) of GSR 570 (E).

10. The Learned Counsel for the Petitioner vehemently relies on an order dated 21.04.2015 in W.P.(MD).No.5265 of 2015, pass by this Court, between T.Thiagarajan Duraiah (the petitioner herein) v. The Regional Passport Officer, Regional Passport Office, Tiruchirapalli and two others, whereby and where under, at paragraph Nos.5 and 6, it is observe as under:

"5. Mr.G.R.Swaminathan, Learned Assistant Solicitor General of India appearing for Mr.K.Ashok Kumar Ram, Learned Central Government Standing Counsel for the first respondent, would submit that mere pendency of the criminal case at the F.IR stage, may not be a ground for refusing the renewal of the passport, and prayed for passing appropriate orders.

6. In the light of the above, this writ petition is allowed and the impugned order dated 27.03.2015, pass by the first respondent is quashed and the matter is remitted back to the first respondent is quashed and the matter is remitted back to the first respondent for early consideration afresh, since the petitioner is planning to travel abroad to participate in the AGRO-TECH 2015 agriculture trade fair scheduled to be held between 28.04.2015 and 05.05.2015 at Tel Aviv Israel and hence, the first respondent shall consider the claim of the petitioner for renewal of his passport on merits and in accordance with law and take a decision in this regard, on or before 24.04.2015. Consequently, the connect miscellaneous petition is closed. No costs."

11. In response, the Learned Counsel for the first respondents submits that if the petitioner obtains an order from the concerned competent court to travel abroad, because of the pendency of a criminal case in S.C.No.24 of 2015, then, the first respondent would look into the same and proceed further, as per the direction issued by the concerned Court.

12. At this juncture, this Court very pertinently points out that neither the Passports Act, 1967 nor the Rules require the passport holder to leave the frontiers of India. As a matter of fact, it is the duty of the Passport Authority to bring the relevant notification to the notice of the petitioner, so as to enable him to apply before the concerned Criminal Court seeking permission to travel abroad.

13. Undoubtedly, a citizen of a country has a right to travel, but the same is not an absolute right, in the consider opinion of this Court. In the same breadth, when a criminal case in S.C.No.24 of 2015 is pending on the file of the concerned trial court, this Court is informed that NBW against the petitioner was recalled only on 28.07.2016 and the said case stands posted for next hearing on 30.08.2016 and therefore, the petitioner is to participate in the criminal proceedings. Taking into account all these aspects, this Court is of the earnest

and consider view that the petitioner is to file necessary miscellaneous petition before the concerned trial Court and to seek permission of the said Court to travel abroad.

14. At this stage, this Court on perusal of the impugned order dated 18.07.2016, passed by the first respondent/Regional Passport Officer, Regional Passport Office, Trichirapalli, is of the consider view that the petitioner was only requested to produce an acquittal order of the concerned Court or to furnish permission/exemption order from the concerned court, where the said sessions case is pending etc.

15. Be that as it may, this Court, considering the fact that the Sessions Case No.24 of 2015 is pending against the petitioner on the file of the concerned trial Court and also the next date of hearing stands adjourned to 30.08.2016, simpliciter, directs the petitioner to approach the concerned trial Court, where the case in S.C.No.24 of 2015 is pending, within a period of one week from the date of receipt of copy of this order and to file necessary miscellaneous petition seeking permission to travel abroad. It is pertinently made clear that if such a petition is filed by the petitioner, then, the concerned trial Court is direct to take the same on file and to dispose of it on merits (of-course after affording adequate opportunity to other side in the manner known to Law and in accordance with Law). After obtaining necessary permission from the concerned Criminal Court for travelling abroad, it is open to the Petitioner to submit a copy of the said order before the First Respondent/The Regional Passport Officer, Trichirapalli, for redressal of his grievance and the Officer is direct to act in accordance with the said order, subject to the notification of the Central Government, as the case may be.

16. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.