

(2022) 04 TEL CK 0049
In the Telangana High Court
Case No : Writ Petition No. 11674 Of 2022

Ravi Kumar Panasa

APPELLANT

Vs

Union Of India And Another

RESPONDENT

Date of Decision : 18-04-2022

Acts Referred:

Passport Rules, 1980 — Rule 12, 12(1)
Narcotics Drugs And Psychotropic Substances (NDPS) Act, 1985 — Section 8(c), 20, 21
Passports Act, 1967 — Section 6(2)(f), 10

Citation : (2022) 04 TEL CK 0049

Hon'ble Judges : P. Madhavi Devi, J

Bench : Single Bench

Advocate : V Murali Manohar, Namavarapu R Rao

Final Decision : Allowed

Judgement

1. This Writ Petition has been filed by the petitioner seeking a Writ of Mandamus declaring the action of the 2nd respondent in failing to issue fresh passport bearing No.Z6316571 belonging to the petitioner herein for a period of ten years, for which he is eligible as directed by the learned I Additional Metropolitan Sessions Judge, Hyderabad in CrI.M.P.No.234 of 2020 in S.C.No.638 of 2018 vide order dt.27.10.2020 and as per Rule 12(1) of the Passport Rules, 1980, as illegal and arbitrary and to consequently direct the 2nd respondent to extend the validity period of the new passport for a further period of 9 years, i.e., until 23.12.2031 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. Brief facts leading to the filing of this Writ Petition are that the petitioner claims to be an accomplished and reputed filmmaker and media entrepreneur and is the Managing Director of R.K. Media. A criminal case was registered against the petitioner and the petitioner was arrayed as accused No.8 in Crime No.52 of 2015 on the file of the SHO, Central Crime Station Police Station, D.D., Hyderabad for the offences under Sections 20, 21 read with Section 8(c) of the

Narcotics Drugs and Psychotropic Substances (NDPS) Act, 1985 which is pending trial vide S.C. No.638 of 2018 on the file of the I Additional Metropolitan Sessions Judge, Hyderabad. The petitioner was enlarged on bail vide orders passed in Crl.M.P.No.529 of 2015 by the II Additional Metropolitan Sessions Judge, Hyderabad.

3. While matter stood thus, the petitioner's passport bearing No.J0250792 issued on 05.08.2010 was set to expire on 04.08.2020 and therefore, the petitioner approached the 2nd respondent for renewal of his passport and submitted an application dt.04.08.2020. While considering the application of the petitioner, the 2nd respondent sought clarification from the petitioner in respect of the criminal case pending against him. The petitioner submitted a representation dt.26.08.2020 clarifying to the 2nd respondent, that the above crime was falsely foisted against him and pendency of the same is nowhere conclusive that he is guilty of the alleged crime. He also submitted that till he is found guilty, he is to be considered as innocent and that there were no travel restrictions imposed on him by the Court. It is submitted that the 2nd respondent passed an order dt.18.09.2020 rejecting the request made by the petitioner for renewal of his passport citing adverse police verification report, wherein the involvement of the petitioner in Crime No.52 of 2015 in S.C.No.638 of 2018 before the I Additional Metropolitan Sessions Judge, Hyderabad was stated. The 2nd respondent directed the petitioner to approach the Court where the above case is pending to obtain permission to travel abroad and in the event the Court accords such permission, the 2nd respondent can reconsider the application dt.04.08.2020.

4. Accordingly, the petitioner filed Crl.M.P.No.234 of 2020 in S.C.No.638 of 2018 on the file of the I Additional Metropolitan Sessions Judge, Hyderabad and the Court vide orders dt.27.10.2020 directed the 2nd respondent to renew the petitioner's passport bearing No.J0250792 for the eligible period on the basis that merely because a criminal case is pending, the petitioner cannot be denied his right to renew his passport. Consequently, the petitioner was issued a new passport bearing No.Z5981727 for the period from 17.11.2020 to 16.11.2021. Aggrieved by the action of the 2nd respondent in issuing the passport only for one year and in not issuing the passport for a period of 10 years, the present Writ Petition is filed.

5. Learned counsel for the petitioner, Sri V. Murali Manohar, has drawn the attention of this Court to the order of the Sessions Judge in Crl.M.P.No.234 of 2020 in S.C.No.638 of 2018, wherein it was held that the petitioner is entitled to renewal of the passport for the period he is eligible if his application is otherwise in order. He has also drawn the attention of this Court to Rule 12 of the Passport Rules, 1980, wherein it is provided that an ordinary passport for persons other than children below the age of 15 years, containing thirty-six pages or sixty pages shall be in force for a period of 10 years from the date of its issue. He further refers to Notification in G.S.R. 570(E) dt.25.08.1993 issued by the Ministry of External Affairs, Government of India wherein it is provided that

citizens of India, against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal Court in India, and who produce orders from the Court concerned permitting them to depart from India, are exempted from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the Passports Act subject to the certain conditions, namely, the passport to be issued to every such citizen shall be issued (i) for the period specified in order of the Court referred to above, if the Court specifies a period for which the passport has to be issued; (ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year. According to the learned counsel for the petitioner, since the Court order specifically mentions that passport shall be renewed to the period the petitioner is eligible, respondent No.2 ought to have issued the passport for the entire period of 10 years. He further places reliance upon the judgments of Bombay High Court in the case of Narendra K. Ambwani Vs. Union of India and others 2014 SCC OnLine Bom 356 and also in the case of Samip Nitin Ranjani Vs. Union of India 2016 SCC OnLine Bom 14539.

6. Smt. B.Kavita Yadav, learned counsel representing Sri Namavarapu Rajeswara Rao, learned Assistant Solicitor General appearing for the respondents, on the other hand, opposed the contentions of the petitioner and relying upon the contentions raised in the counter-affidavit, submitted that in the Gazette Notification vide GSR 570(E) dt.25.08.1993, it is mentioned that if no period either for the issue of passport or for the travel abroad is specified in the order of the Court before which the criminal case is pending, the passport shall be issued for a period of one year only and accordingly the passport of the petitioner bearing No.Z6316571 dt.24.12.2021 was issued with validity up to 23.12.2022. Therefore, according to her, there is no merit in the case of the petitioner and prayed for dismissal of the writ petition.

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 CrI.M.P.No.234 of 2020 and the criminal Court has allowed the CrI.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.

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.

11. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.