

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

TUESDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 32906 OF 2023

Between:

Ravikanti Venkatesham, S/o Agaiah, Aged 53 yrs., Occ. Business, R/o
H. No.1-177/13/5, Road No.2, Maruthi Nagar, Mancherial, Mancherial District.

...PETITIONER

AND

1. The Union of India, Rep. by its Principal Secretary, Ministry of External Affairs, South Block, Secretariat, Raisina Hill, New Delhi, India.
2. The Regional Passport Officer, O/o. The Regional Passport Office, 73, Red Cross Road, Shivaji Nagar, Secunderabad, Telangana.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order, or direction, more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the 2nd Respondent in not renewing petitioner's Passport bearing No.K5561052 pursuant to the application vide File number HY75C5008204523 dated 27/01/2023 on the ground of pending Criminal Case vide CC. No.391/2022 U/s. 420 r/w 34 of IPC on the file of II Additional Judicial First Class Magistrate at Mancherial as illegal, arbitrary, unconstitutional, in violation of principles, of natural justice and contrary to the provisions of The Passports Act, 1967 and consequently direct the 2nd respondent to renew petitioners passport bearing No.K5561052 pursuant to the application dated 27/01/2023 without reference to the said criminal case.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 2nd respondent to consider the petitioner's application vide File number HY75C5008204523 dated 27/01/2023 for renewal of Passport bearing No.K5561052 without reference to Criminal Case vide CC. No.391/2022 U/s. 420 r/w 34 of IPC on the file of II Additional Judicial First Class Magistrate at Mancherial pending disposal of the above writ petition in the interest of justice.

Counsel for the Petitioner: SRI P.LAKSHMA REDDY

**Counsel for the Respondents: SMT N.V.R.RAJYA LAKSHMI, REP. FOR
SRI GADI PRAVEEN KUMAR,
Dy. SOLICITOR GEN. OF INDIA**

The Court made the following: ORDER

HON'BLE MRS. JUSTICE SUREPALLI NANDA

WRIT PETITION No.32906 OF 2023

ORDER:

Heard learned counsel for the petitioner and Smt. N.V.R. Rajya Lakshmi, learned counsel representing learned Deputy Solicitor General of India appearing on behalf of respondent No.2.

2. The petitioner has approached the Court seeking the following relief:

"to issue an appropriate writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the 2nd Respondent in not renewing petitioner's Passport bearing No K5561052 pursuant to the application vide File number HY75C5008204523 dated 27-01-2023 on the ground of pending Criminal Case vide CC No. 391/2022 U/s. 420 r/w 34 of IPC on the file of II Additional Judicial First Class Magistrate at Mancherial as illegal, arbitrary, unconstitutional in violation of principles of natural justice and contrary to the provisions of the Passports Act 1967 and consequently direct the 2nd respondent to renew petitioner's passport bearing No.K5561052 pursuant to the application dated 27-01-2023 without reference to the said criminal case and be pleased to pass such other order or orders as may deem fit and proper in the circumstances of the case."

3. The case of the petitioner, in brief, is as follows:

- a) The petitioner is resident of Mancherial town and his passport vide No.K5561052 was valid up to 21.01.2023. On 27.01.2023, the petitioner made application to respondent No.2 vide file No.HY75C5008204523 to renew passport as per the procedure under Passports Act, 1967.
- b) After several oral requests by the petitioner, the 2nd respondent informed that the petitioner involved in criminal case vide C.C.No.391 of 2022 under Section 420 read with 34 IPC on the file of II Additional Judicial First Class Magistrate, Mancherial, hence, petitioner's passport cannot be renewed. Aggrieved by the same, petitioner filed the present writ petition.

PERUSED THE RECORD.

4. This Court opines that pendency of criminal case against the petitioner cannot be a ground to deny renewal of Passport to the petitioner and the right to personal liberty would include not only the right to travel abroad but also the right to possess a Passport.

5. The Apex Court in the judgment reported in 2013 (15) SCC page 570 in Sumit Mehta Vs. State of NCT of Delhi at para 13 observed as under:

"The law presumes an accused to be innocent till his guilt is proved. As a presumable innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution of India."

6. **The Apex Court in Menaka Gandhi Vs. Union of India and another reported in AIR 1978 SC 597, and in Satish Chandra Verma Vs. Union of India (UOI) and others reported in 2019 (2) SCC Online SC 2048 very clearly observed that the right to travel abroad is a part of a personal liberty and the right to possess a passport etc., can only be curtailed in accordance with law only and not on the subjective satisfaction of anyone. The procedure must also be just, fair and reasonable.**

7. Respondent No.2 cannot deny renewal of Passport to the petitioner on the ground that Criminal Case is pending against the petitioner. It is relevant to note that the Apex Court in 2020 Cr.L.J. (SC) 572 in "**Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation**" had an occasion to examine the provisions of the Passports Act, pendency of criminal cases and held that refusal of a passport can be only in case where an applicant is convicted during the period of five (05) years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years. Section 6.2 (f) relates to a situation where the applicant is facing trial in a criminal Court. The petitioner therein was convicted in a case for the offences under Sections - 420, 468, 471 and 477A read with 120B of the IPC and also Section - 13 (2) read with Section

13 (1) of the Prevention of Corruption Act, 1988. Against which, an appeal was filed and the same was dismissed. The sentence was reduced to a period of one (01) year. The petitioner therein had approached the Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Apex Court held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Apex Court directed the Passport Authority to renew/issue the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal case.

8. In the judgment dated 08.04.2022 of the Andhra Pradesh High Court reported in 2023 (4) ALT 406 (AP) in Ganni Bhaskara Rao Vs. Union of India and another at paras 4, 5 and 6, it is observed as under:

"This Court after hearing both the learned counsel notices that the Hon'ble Supreme Court of India, in Criminal Appeal No.1342 of 2017, was dealing with a person, who was convicted by the Court and his appeal is pending for decision in the Supreme Court. The conviction was however stayed. In those circumstances also it was held that the passport authority cannot refuse the "renewal" of the passport.

This Court also holds that merely because a person is an accused in a case it cannot be said that he cannot "hold" or possess a passport. **As per our jurisprudence every person is presumed innocent unless he is proven guilty. Therefore, the mere fact that a criminal case is pending against the person is not a ground to**

conclude that he cannot possess or hold a passport. Even under Section 10 (d) of the Passports Act, the passport can be impounded only if the holder has been convicted of an offence involving "moral turpitude" to imprisonment of not less than two years. The use of the conjunction 'and' makes it clear that both the ingredients must be present. Every conviction is not a ground to impound the passport. **If this is the situation post-conviction, in the opinion of this Court, the pendency of a case/cases is not a ground to refuse, renewal or to demand the surrender of a passport.**

9. Taking into consideration the aforesaid facts and circumstances, and duly taking into consideration the law laid down in the above said judgments (referred to and extracted above), the writ petition is disposed of directing the 2nd Respondent-Passport Officer to consider the application No.HY75C5008204523 of the petitioner dated 27.01.2023 seeking renewal of petitioner's passport, within a period of one week from the date of receipt of a copy of this order without relating it to the pendency of the proceedings in C.C.No.391 of 2022 on the file of II Additional Judicial Magistrate of First Class, Mancherial. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

//TRUE COPY//

SD/-A.PRATHIMA
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary, Ministry of External Affairs, South Block, Secretariat, Raisina Hill, New Delhi, Union of India.
2. The Regional Passport Officer, O/o. The Regional Passport Office, 73, Red Cross Road, Shivaji Nagar, Secunderabad, Telangana.
3. One CC to SRI P.LAKSHMA REDDY, Advocate [OPUC]
4. One CC to SRI GADI PRAVEEN KUMAR, Dy. SOLICITOR GEN. OF INDIA, High Court for the State of Telangana at Hyderabad [OPUC]
5. Two CD Copies

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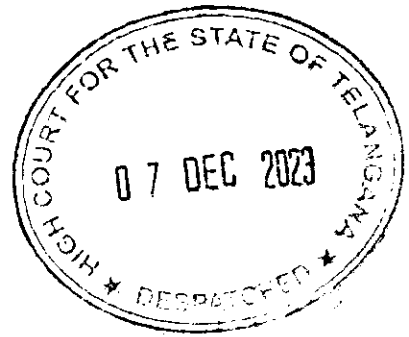
BSR

HIGH COURT

DATED: 05/12/2023

ORDER

WP.No.32906 of 2023



DISPOSING OF THE WRIT PETITION,
WITHOUT COSTS

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7/12/23