

# VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 7<sup>TH</sup> DAY OF JUNE 2023 / 17TH JYAISHTA, 1945

WP(C) NO. 9369 OF 2023

PETITIONERS:

EJO P.J.,  
AGED 37 YEARS  
S/O. JOY, PARIYARATHU HOUSE, PERIYAPPURAM KARA,  
ONAKKOOR VILLAGE, ERNAKULAM DISTRICT,  
PIN - 686667

BY ADV P.I.DAVIS

RESPONDENTS:

- 1 REGIONAL PASSPORT OFFICE,  
MINISTRY OF EXTERNAL AFFAIRS,  
GOVT. OF INDIA,  
PANAMBILLY NAGAR P.O.,  
COCHIN, PIN - 682036
- 2 STATION HOUSE OFFICER,  
PIRAVOM POLICE STATION,  
ERNAKULAM DISTRICT-, PIN - 686664

BY ADV S.MANU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
07.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

*Dated this the 7<sup>th</sup> day of June,2023*

## **J U D G M E N T**

The writ petition is filed to direct the first respondent to issue a police clearance certificate in favour of the petitioner.

2. The relevant backgrounds facts are:

2.1. The petitioner is employed in Kuwait. At the instance of his estranged wife, he has been falsely implicated in Crime No.1358/2017 by the Piravom Police Station, alleging to have committed matrimonial offences. The petitioner has got himself enlarged on bail. The police have filed the final report in C.C.No.38/2018 before the Judicial First Class Magistrate Court, Piravom. A petition to dissolve the marriage is pending before the Family Court.

2.2. The first respondent had issued Ext.P1 police

clearance certificate (in short, 'PCC') in favour of the petitioner, and he went to Kuwait for employment. The learned Magistrate, by Ext.P2 order, has dispensed with the personal appearance of the petitioner in the criminal case for three years.

2.3. Although the first respondent had issued Ext.P3 PCC, the Embassy of Kuwait refused to accept the certificate since it did not contain a barcode, as seen in Ext.P1 PCC. Then the first respondent directed the petitioner to obtain permission from the learned Magistrate to travel abroad. By Ext.P4 order, the learned Magistrate granted permission to the petitioner to travel to Kuwait.

2.4. When the petitioner produced Ext.P4 order, the first respondent refused to grant the PCC, alleging that there are criminal cases pending against him.

2.5. In an identical situation, pursuant to Ext.P6

judgment passed by this Court, the Regional Passport Officer, Kozhikode, has issued Ext.P7 PCC with a barcode to another applicant. Even though the petitioner cited the above example to the first respondent, he refused to accept the same.

2.6. The petitioner then filed W.P. (C)No.5315/2023 before this Court, which was allowed by Ext.P8 judgment, quashing Ext.P.3 certificate and directing the first respondent to issue the PCC with barcode and by fixing the petitioner's photograph, that too after making appropriate changes to Appendix 32 of the Passport Manual.

2.7. Nonetheless, the first respondent has issued Ext.P9 PCC in favour of the petitioner without a barcode and the scanned photograph, disregarding Ext.P8 judgment.

2.8. The Embassy of Kuwait has refused to accept

Ext.P9 PCC because it does not fulfil their requirements and specifications.

2.9. The stand of the first respondent, that police clearance certificates are outsourced through outside agencies and that they don't have the provision to issue PCC with a barcode when there is a pending criminal case, is untenable and unjustifiable. The first respondent is duty-bound to upgrade their system and issue globally acceptable certificates. Hence, the first respondent may be directed to issue the PCC with the petitioner's scanned photograph, a barcode and the case details. Hence, the writ petition.

3. The learned Deputy Solicitor General of India [DSGI] has filed a statement on behalf of the first respondent, *inter alia*, contending that the first respondent has no access to make changes in the computer system of the central database and

incorporate the petitioner's criminal case details. As per the existing Passport Seva Project System, the Passport Issuing Authorities can generate a PCC through the system, with a barcode and scanned photograph as per the format extracted in the statement, only if no criminal case is registered against the applicant. In the instant case, as there is a pending crime against the petitioner, the first respondent is helpless to incorporate the criminal case details, the barcode and the scanned photograph of the petitioner. The first respondent is not in a position to alter the central computer system. Therefore, only a PCC in the nature of Ext.P9 can be issued. Hence, the writ petition may be dismissed.

4. Heard; Sri. P.I. Davis, the learned counsel appearing for the petitioner and Sri.Manu, the learned DSGI for the respondents.

5. The petitioner's request is to have a PCC with a barcode, his scanned photograph and the details of the criminal case pending against him.

6. The first respondent's stand is that PCCs' are issued from the system based on the Ministry of External Affairs database. The central database permits PCCs to be issued with barcodes and scanned photographs only if the applicant has no criminal antecedents; otherwise, only a manual certificate can be issued without the barcode and scanned photograph.

7. This Court finds the stand of the first respondent to be cavil, naïve and unacceptable.

8. We are in the AI era and the 5G revolution. Our Nation is a front-runner in technology. We are striving to make India Digital with initiatives like Indiastack.global, to have a repository of open

standards and interoperability principles of key projects implemented under the Digital India Mission like Aadhaar, UPI, Digilocker etc. The certificates issued by the government and statutory authorities have to be internationally accepted, especially when India is a signatory to international conventions and treaties.

9. When situations like the one on hand arise, which are global demands due to the emergence of technology, we cannot just throw our hands in the air and express helplessness. A certificate with a barcode and scanned photograph quickly confirms the information and identifies the person from large databases by scanning or swiping the document. It also eliminates the cumbersome process of apostille stamping/attestation of the document by foreign missions. Barcodes also have high-security features



and eradicate fraud.

10. The petitioner's requirement is one such example that demonstrates that the Government and Instrumentalities have to be abreast with the ever-emerging global demands. If our vision to have a digital India is to materialise, we must be willing to change every minute to catch up with the global world and not adopt a pedantic and rigid approach.

11. Going by what the respondents have projected in the statement, this Court is of the opinion that the issue can be resolved by making minor modifications in the central database so that such litigations can be averted in the future.

12. In the above conspectus, I am of the view that the first respondent is to be directed to forthwith take up the matter with the competent authorities to make necessary modifications in the central system so that

the above issue can be avoided across the Country.

Resultantly, in the exercise of the powers of this Court under Article 226 of the Constitution of India, I dispose of the writ petition as follows:

- (i) The first respondent is directed to forward a copy of this judgment to the Ministry of External Affairs, Government of India.
- (ii) The competent authority under the Ministry of External Affairs shall take immediate steps to upgrade the central database and issue the PCC certificate to the petitioner with the barcode, his scanned photograph and the criminal case details.
- (iii) The first respondent is directed to complete the above exercise as expeditiously as possible, at any rate, within one month from receipt of a certified copy of this judgment.
- (iv) The learned DSGI is also directed to forward a copy of this judgment to the Ministry of External

W.P. (C)No.9369/2023

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Affairs, Government of India, for information and compliance.

Sd/-

**C.S.DIAS,JUDGE**

DST/07.06.23

//True copy//

P.A.To Judge

APPENDIX

PETITIONER EXHIBITS

- EXHIBIT-P1 TRUE COPY OF THE POLICE CLEARANCE CERTIFICATE DATED 15/10/2019 ISSUED BY THE 1ST RESPONDENT
- EXHIBIT-P2 TRUE COPY OF THE ORDER DATED 27/10/2022 IN C.M.P. NO. 1333/2022 IN C.C. 38/2018 OF THE JUDICIAL FIRST CLASS MAGISTRATE, PIRAVOM
- EXHIBIT-P3 TRUE COPY OF THE POLICE CLEARANCE CERTIFICATE DATED 07/11/2022 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER
- EXHIBIT-P4 TRUE COPY OF THE ORDER DATED 18/01/2023 IN C.M.P. 34/2023 IN C.C. 38/2018 OF THE JUDICIAL FIRST CLASS MAGISTRATE, PIRAVOM
- EXHIBIT-P5 TRUE COPY OF THE VISA ISSUED FROM KUWAIT ON 25/12/2022
- EXHIBIT-P6 TRUE COPY OF THE JUDGMENT DATED 22/07/2022 IN W.P. (C) NO. 23559/2022 OF THIS HON'BLE COURT
- EXHIBIT-P7 TRUE COPY OF THE POLICE CLEARANCE CERTIFICATE DATED 03/08/2022 TO THE PETITIONER IN W.P.(C) 23559/2022
- EXHIBIT-P8 TRUE COPY OF THE JUDGMENT DATED 02/03/2023 IN W.P.(C) 5315 OF 2023 OF THIS HON'BLE COURT
- EXHIBIT-P9 TRUE COPY OF POLICE CLEARANCE CERTIFICATE DATED 10/03/2023 ISSUED BY THE 1ST RESPONDENT
- EXHIBIT-P10 TRUE COPY OF THE STATUS SHOWN AT THE SITE OF THE PASSPORT SEVA AS ON 13-01-2023 IN RESPECT OF POLICE CLEARANCE CERTIFICATE OF THE PETITIONER

# VERDICTUM.IN

W.P.(C)No.9369/2023

-:13:-

EXHIBIT-P11                    TRUE COPY OF THE CIVIL ID CARD ISSUED BY  
THE STATE OF KUWAIT IN RESPECT OF  
PETITIONER'S WIFE AND SON WHICH EXPIRED ON  
22-02-2023

RESPONDENT'S EXHIBITS: NIL

