

APHC010124032024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3209]

MONDAY ,THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No: 6634/2024

Between:

Ganapaneni Yaswanth

...PETITIONER

AND

The Union Of India and Others

...RESPONDENT(S)

Counsel for the petitioner : Mr.R.S.Manidhar Pingali

Counsel for the respondents : 1. Smt.M.Uma Devi,
Standing Counsel for the Central Government
2. G.P. for Home

The Court made the following order:

Heard learned counsel for the petitioner. Also heard Smt.M.Uma Devi, learned Standing Counsel appeared on behalf of respondents 1 to 3 and learned Assistant Government Pleader for Home appeared on behalf of respondents 4 and 5.

2. The writ petition is filed seeking to declare the inaction on the part of the respondent No.3 at the behest of the 2nd respondent in renewing the passport of the petitioner bearing No.M3264501 on the ground of pendency of Criminal Cases as violative of Article 21 of the Constitution of India and contrary to the

principles laid down in W.P.No.1392 of 2023 & batch and also W.P.No.26366 of 2023 and for a consequential direction.

3. The learned counsel for the petitioner, *inter alia*, submits that the petitioner is working as Manager in Orange Way Consulting Company at Hyderabad and he obtained passport bearing No.M3264501 from the 1st respondent, which is going to be expired on 29.10.2024. He submits that as the petitioner has to travel to Canada as a part of his job frequently, before expiry of his passport made a renewal application to the respondent No.3 on 28.12.2023 and the same was kept pending on the ground that criminal cases are pending against him *vide* F.I.R.No.144 of 2017 of Kanchikacherla Police Station, which was numbered as C.C.No.609 of 2018 on the file of the Court of Judicial Magistrate of First Class, Nandigama and also F.I.R.No.147 of 2017 of Kanchikacherla Police Station numbered as P.R.C.No.32 of 2022 on the file of the Court of Judicial Magistrate of First Class, Nandigama. He also submits that the above said C.C.No.609 of 2018 was ended up in acquittal in favour of the petitioner and insofar as the other criminal case, which is pending against the petitioner is concerned, charge sheet is not numbered and at any rate, the pendency of the said case is not a bar or an impediment to the passport authorities to renew the passport to the petitioner. Making the said submissions, the learned counsel seeks the relief as prayed for.

4. The learned counsel also submits that the inaction of the passport-authorities in renewing the passport to the petitioner amounts to violation of the petitioner's fundamental rights guaranteed under the Constitution of India.

5. At the time of considering the matter, the learned Assistant Government Pleader for Home, on written instructions submits that P.R.C.No.33 of 2022 is pending before the Court of Judicial Magistrate of First Class, Nandigama.

6. The learned counsel appearing on behalf of the passport authorities submits that in the absence of No Objection Certificate(NOC) / permission from the competent Criminal Court where the criminal case is stated to be pending, the passport cannot be issued and allegations of in action alleged on the part of the passport authorities is not justified.

7. This Court has considered the submissions made and perused the material on record. At the outset, it may be noted that there is no dispute about the registration of crimes and that one of the matters is pending before the competent Criminal Court i.e., Judicial Magistrate of First Class, Nandigama. Be that as it may.

8. The issue with regard to the granting / renewal of passports is well settled. In **Khader Vali Shaik v. Union of India**¹, a learned Judge of this Court, after referring to various decisions, disposed of the matters by a detailed order, the operative portion of which reads as follows:

“(a) The prayer of writ petitioners seeking direction to the respondent passport authorities to renew the passport without insisting on compliance with the notification dated 25.08.1993, notwithstanding the pendency of the criminal case in the Court concerned for trial, is rejected.

(b) A direction is issued to the respondents No.1 to 3 to consider the cases of the petitioners covered under clause (f) of Section 6 (2) of the Passports Act, for

¹ 2023 SCC OnLine AP 406

renewal of the passport, on production of the order from the concerned Court where the criminal case is pending for trial.

(c) On production of an order from the concerned Court, as aforesaid, the application for renewal shall not be rejected on the ground of mere pendency of the criminal case in Court, but subject to compliance of other requirements under notification dated 25.08.1993.”

9. Another learned Judge of this Court disposed of W.P.No.30373 of 2022 *vide* Order dated 28.09.2022, the relevant portion of which reads as follows:

“9. A learned Single Judge of the High Court at Madras dated 04.02.2021 in W.P.No.20058 of 2020 held that mere pendency of a First Information Report cannot be the legal basis for denial of issuance of a regular passport to the petitioner and that it is only after cognizance is taken by an appropriate Court that it can be held that criminal proceedings have commenced and issuance or renewal of the passport would be depend on no objection being given by the concerned Court.

10. The Central Government has also issued G.S.R.No.570(E), dated 25.08.1993 stipulating that a no objection order would be required from a Court only if it falls within the ambit of Section 6(2)(f). 5

11. In view of the fact that Section 6(2)(f) would arise only when there is a pending proceeding before the Criminal Court after cognizance is taken, it would have to be held that as of now there is no pending criminal proceeding before the Court.”

10. In the light of the above stated legal position, this Court is deems it appropriate to dispose of the writ petition, providing that the petitioner may secure appropriate orders from the jurisdictional Criminal Court i.e., Judicial Magistrate of First Class, Nandyala seeking permission / NOC. If the petitioner adopts such course of action, necessary action on the petitioner’s application shall be taken in accordance with the Law, as expeditiously as possible within 3 weeks from the date of filing of the application. Further on the petitioner producing appropriate

orders / NOC / permission from the competent Court, the application for issuance of passport shall be disposed of, expeditiously.

11. With the above directions, the writ petition is disposed of. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

NINALA JAYASURYA, J

Date: 18.03.2024
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

W.P.No.6634 of 2024

Date: 18.03.2024

BLV