

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

MONDAY, THE 5TH DAY OF JUNE 2023 / 15TH JYASHTA, 1945

WP(C) NO. 14630 OF 2023

PETITIONER:

SUJITH. S.K, AGED 41 YEARS
SON OF SUDEVAN KONATHUVEETIL, THOPPUVILA VEEDU, MUNDAYIL,
CHERUNNIYOOR VILLAGE, VARKALA TALUK, THIRUVANANTHAPURAM DISTRICT,
PIN - 695141

BY ADVS.MINI GANGADHARAN
ASWATHI S. KUMAR

RESPONDENTS:

- 1 REGIONAL PASSPORT OFFICER, REGIONAL PASSPORT OFFICE,
KAITHAMUKKU, TRIVANDRUM - 695 036.
- 2 CITY POLICE COMMISSIONER,
OFFICE OF THE CITY POLICE COMMISSIONER, C.V. RAMAN PILLAI ROAD,
THYCAUD, TRIVANDRUM -695014, PIN - 695014
- 3 THE STATION HOUSE OFFICER, VARKALA POLICE STATION, VARKALA.P.O.,
THIRUVANANTHAPURAM -695141, PIN - 695141

SRI JAISHANKAR V NAIR, CGC
SRI SREEJITH V S, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.06.2023, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 5th day of June 2023

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

2. The petitioner's case is that, he has obtained a work permit to work in a company in Poland. But, the petitioner requires a police clearance certificate from the first respondent. The petitioner has been falsely implicated in Crime Nos.54/2019 and 645/2021 of the Varkala Police Station, at the instance of his estranged wife and her family. The petitioner is in dire need to take up his assignment for the purpose of his livelihood. He is the holder of Indian Passport bearing No.V3058032, which is valid till 27.10.2031. Although, the petitioner approached the first respondent for a police clearance certificate, the same has been declined due to the pendency of the above two cases. However, at the instance of the petitioner, the jurisdictional

Magistrate has passed Exts.P4 and P6 orders granting permanent exemption to the petitioner and permitting him to travel abroad for a period of two years from 10.4.2023. Hence, the first respondent may be directed to issue the police clearance certificate. Thus, the writ petition.

3. The learned Deputy Solicitor General of India has filed a statement on behalf of the first respondent, inter alia, contending that the petitioner has obtained the above passport by suppression of material facts. Thus, the petitioner's passport is liable to be impounded. The first respondent has issued a show cause notice to the petitioner, to show cause why his passport shall not be impounded. Nonetheless, in view of Exts.P4 and P6 orders passed by the jurisdictional Magistrate, the petitioner would be entitled for a police clearance certificate after incorporating the details of the criminal cases pending against him, and a fresh passport can be issued for the tenure granted in Exts.P4 and P6 orders. The writ petition may be disposed of accordingly.

4. Heard; Smt.Mini Gangadharan, learned counsel for the petitioner, Sri.Jaishankar V. Nair, learned Central Government Counsel appearing for the first respondent and Sri.Sreejith.V.S., the learned Government Pleader appearing for the respondents 2 and 3.

5. Having considered the pleadings and materials on record and taking into account the fact that the jurisdictional Magistrate has granted permission to the petitioner to travel abroad for a period of two years from 10.4.2023, as evidenced by Exts.P4 and P6 orders, I am of the definite view that the petitioner is entitled for a police clearance certificate and a passport for the time period stated above, that too after impounding the passport issued in favour of the petitioner.

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

1. The first respondent is directed to issue the petitioner the police clearance certificate and a fresh

passport having a vaility of two years from 10.4.2023, as already observed in this judgment.

2. The first respondent shall issue the police clearance certificate and passport, as expeditiously as possible and in accordance with law, at any rate, within a period of ten days from the date of receipt of a certified copy of this judgment.

3. The first respondent shall carry out the entire exercise of issuing the police clearance certificate by affixing a photograph of the petitioner after making appropriate changes in the specimen contained in Appendix 32 of the Passport manual and by stating therein that the Magistrate has permitted the petitioner to go abroad and that he has been exempted from appearing before court for a period of 2 years from 10.4.2023.

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**sd/-
C.S.DIAS
JUDGE**

APPENDIX OF WP(C) 14630/2023

PETITIONER'S EXHIBITS:

- Exhibit P1 THE TRUE COPY OF PASSPORT OF THE PETITIONER
- Exhibit P2 THE TRUE COPY OF APPLICATION SENT TO 1ST RESPONDENT DATED 30.03.2023
- Exhibit P3 THE TRUE COPY OF CRL.M.P.NO. 3744/2023 IN C.C NO.185/2019, THE APPLICATION FOR EXEMPTION DATED 3.04.2023 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATES COURT, VARKALA.
- Exhibit P4 THE TRUE COPY OF THE ORDER DATED A. 10.04.2023 IN CRL.M.P.NO. 3744/2023 IN C.C NO.185/2019 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATES COURT, VARKALA.
- Exhibit P5 THE TRUE COPY OF CRL.M.P.NO. 3739/2023 IN C.C NO.3158/2021, THE APPLICATION FOR EXEMPTION DATED 3.04.2023 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATES COURT, VARKALA.
- Exhibit P6 THE TRUE COPY OF THE ORDER DATED 10.04.2023 IN CRL.M.P.NO. 3739/2023 IN C.C NO.3158/2021 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATES COURT, VARKALA.
- Exhibit P7 TRUE COPY OF AFFIDAVIT WITH UNDERTAKING DATED 18.04.2023 IN C.C.NO 185/2019 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATES COURT, VARKALA.
- Exhibit P8 TRUE COPY OF AFFIDAVIT WITH UNDERTAKING DATED 18.04.2023 IN C.C.NO 3158/2021 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATES COURT, VARKALA.

// True copy //

P.S. to Judge