
(2023) 01 TEL CK 0010

High Court For The State Of Telangana:: At Hyderabad

Case No: Writ Petition No. 44902 Of 2022

Pavan Kumar Naikoti

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision: Jan. 5, 2023

Acts Referred:

- Passport Rules, 1980 - Rule 12
- Indian Penal Code, 1860 - Section 120B, 147, 149, 427, 448, 468, 471, 477A, 506
- Prevention of Damage to Public Property Act, 1984 - Section 3
- Prevention of Corruption Act, 1988 - Section 13(1), 13(2)

Hon'ble Judges: K.Lakshman, J

Bench: Single Bench

Advocate: D Y L N Charyulu, K Mani Deepika

Final Decision: Disposed Of

Judgement

1. This Writ Petition is filed to declare action of 2nd respondent in cancelling the passport bearing No.S1965546, by putting stamp on the passport

on the ground that crime vide Cr.No.538 of 2021 of Saifabad Police Station relating to C.C.No.13781 of 2021 and Cr.No.1071 of 2017 of

Hayathnagar Police Station relating to C.C.No.392 of 2018 as illegal and consequently to direct 2nd respondent to re-issue the passport to the

petitioner by making correction of name of petitioner's wife as Naikoti Vaishnavi instead of Naikoti Vyshnavi in the passport

in pursuance of application dated 02.06.2022 submitted by the petitioner.

2. Heard Sri D.Y.N.L.N.Charyulu, learned counsel for the petitioner, Smt. Kommineni Manideepika, learned standing counsel for Central

Government appearing for respondents. Perused the record.

3. The petitioner herein is holder of passport bearing No. S1965546 and the same is valid upto 26.06.2028. The petitioner herein has submitted

an application vide File No.HY1074269822322, dated 02.06.2022 before 2nd respondent with a request to correct the name of his wife in the

said passport and re-issue the passport. The petitioner received information from 2nd respondent vide letter dated 17.10.2022 that he is an

accused in Cr.No.538 of 2021 of Saifabad Police Station for the offences under Sections 147,149,427 and 448 of IPC and Section 3 of the

Prevention of Damage to Public Property Act, relating to C.C.No.13781 of 2021 and in Cr.No.1071 of Hayathnagar Police Station for the

offences under Sections 448, 427 and 506 of IPC relating to C.C.No.392 of 2018 and cancelled the said passport.

4. As stated above, the petitioner herein is an accused in the aforesaid cases and same are pending. However, as per the terms of gazette

Notification GSR No.570-E, dated 25.08.1993, on the ground of pendency of the proceedings in the aforesaid cases, 2nd respondent cannot

deny renewal of passport of the petitioner. However, as per the said gazette notification, if the petitioner wants to travel abroad, he has to obtain

permission from the court concerned where the cases are pending.

5. It is also relevant to note that the Apex Court in Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation 2020 CrL.J. (SC) 572 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) of the Act, 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 the

passport of the applicant without raising objection relating to the pendency of the aforesaid criminal appeal in the Hon'ble Supreme Court.

6. In view of the aforesaid discussion and also the principle laid down by the Apex Court in Vangala Kasturi Rangacharyulu (supra) Passport

Authority cannot refuse renewal of the passport on the ground of pendency of criminal cases against the petitioner.

7. Therefore, this writ petition is disposed of with the following directions to the petitioner as well as 2nd respondent:-

i) The petitioner herein shall submit an undertaking along with an affidavit before the learned Junior Civil Judge Cum XXIV Additional Metropolitan

Magistrate at Hayathnagar, where the case vide C.C.No.392 of 2018 is pending stating that he shall not leave India during pendency of the said

Cases without permission of the Court and that he shall co-operate with trial Court in concluding the proceedings in the said cases.

ii) On filing such an undertaking as well as affidavit, the trial Court shall issue a certified copy of the same within two (02) weeks therefrom;

iii) The petitioner herein shall submit an application along with certified copy of this order as well as the aforesaid undertaking before the Passport

Officer/Authority concerned for renewal of his passport;

iv) On filing such an application, the Passport Officer/Authority/2nd respondent shall consider the same afresh in the light of the observations made

by this Court herein as well as the contents of the undertaking given by the petitioner and Rule 12 of the Passport Rules,1980 for renewal of his

passport in accordance with law, within three (03) weeks from the date of said application; and

v) The 2nd respondent also to carry out the correction of name of the petitioner's wife in the passport as sought by him.

vi) On renewal of the Passport, the petitioner herein shall deposit the original renewed passport before the trial Court in the above case.

vii) However, liberty is granted to the petitioner to seek permission to travel abroad from the learned Junior Civil Judge Cum XXIV Additional

Metropolitan magistrate at Hayathnagar, where the case vide C.C.No.392 of 2018.

Miscellaneous Petitions, if any, pending, shall also stand closed.