

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

WRIT PETITION No.19480 of 2022

ORDER:

The petitioner is working in Angola, on the basis of his passport bearing No.S8561544, which is valid up to 28.06.2028. The petitioner requires a police clearance certificate, for getting his VISA, in Angola, renewed. On account of this requirement, the petitioner filed an application on 25.05.2022 before the 2nd respondent, who is the Regional Passport Officer, Visakhapatnam. As the said police clearance certificate is not being given, the petitioner has approached this Court, by way of the present writ petition complaining that the inaction of the 2nd respondent is high handed, arbitrary and violative of Articles 14, 19 and 21 of the Constitution of India.

2. The petitioner also submits that his wife had already filed a criminal complaint against him, which was registered as Crime No.337 in P.S.Palem Police Station, Visakhapatnam under Sections 498-A, 323, 506 of I.P.C read with Section 3 of the Dowry Prohibition Act. The petitioner contends that the police clearance certificate can always be issued by incorporating the details of the above crime. Non furnishing of such a clearance certificate would result in the authorities in Angola not renewing his VISA and he would consequently lose his employment in Angola.

3. The learned Government Pleader for Home has placed the written instructions received by him from the Station House Officer of P.S.Palem Police Station, Visakhapatnam dated

11.07.2022. In these written instructions, it is stated that the complaint filed by the wife of the petitioner on 04.05.2022 is under investigation and notices have been issued to all the accused, including the petitioner herein, under Section 41-A of Cr.P.C. It is further stated that the relief sought in this writ petition is against the 2nd respondent and as such, there is nothing further for the 3rd respondent to state before the Court.

4. The learned Assistant Solicitor General, appearing for the 2nd respondent would submit that the service of issuing a police clearance certificate is a voluntary service being given for the benefit of Indian citizens and there is no underlying duty cast on the 2nd respondent, by virtue of any provision of law or Judgment of the Court, to issue such police clearance certificates. He would further submit that a Writ of Mandamus cannot lie against the 2nd respondent and there is no legal duty cast on the 2nd respondent to undertake such activities. Further, the 2nd respondent cannot give a clean chit to the petitioner and would have to incorporate the details of the aforesaid crime in any certificate that can be issued to the petitioner.

5. In view of the fact that the 2nd respondent has been issuing such certificates to citizens staying abroad, the 2nd respondent cannot take the stand that since it is a voluntary service, there cannot be any direction to the 2nd respondent to issue or not to issue such certificates.

6. In the circumstances, this writ petition is disposed of directing the 2nd respondent to issue a police clearance

certificate after recording all the cases filed against the petitioner which have come to the notice of the 2nd respondent. This can be done only after the 3rd respondent has informed the 2nd respondent in writing about the case, which is pending before the 3rd respondent.

7. Accordingly, the 3rd respondent is granted two weeks time to forward all the details of the cases against the petitioner available with the 3rd respondent. Upon receipt of such information, the 2nd respondent, within four weeks thereafter, shall issue a certificate as mentioned above. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J.

04.08.2022

RJS

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