

W.P.(MD) No.12703 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.07.2025

CORAM

THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P.(MD) No.12703 of 2024

and

W.M.P.(MD) No.11286 of 2024

Harinaa

... Petitioner

Vs.

- 1.The Regional Passport Officer,
Regional Passport Office,
Municipal Water Tank Building,
W.B.Road,
Tiruchirappalli - 620 008.
- 2.Union of India through its Secretary,
Ministry of Home Affairs,
Near Pragati Maiden,
New Delhi - 110 001.
- 3.The Director of Refugees and
Rehabilitation,
Ezhilagam,
Chennai - 600 005.
- 4.The Section Officer (PSP - III) Retary,
Government of India,
Ministry of External Affairs,
(PSP Division), Patiala House,
Tilak Marg, New Delhi.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the fourth respondent in Letter No: VIII/405/162/2023 dated 21.05.2024 and quashing the same as illegal and consequently directing the respondents herein to issue passport in petitioner's favour on the basis of provisions contained under Section 20 of the Passport Act having Passport Application Registration No.TRYIF5490551323 dated 20.06.2023 within the time stipulated by this Court.

For Petitioner : Mr.I.Romeo Roy Alfred

For R1, R2 & R4 : Mr.K.Govindarajan
Deputy Solicitor General of India

ORDER

The petitioner has filed this Writ Petition for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the fourth respondent in Letter No.VIII/405/162/2023 dated 21.05.2024, quash the same as illegal, and consequently direct the respondents to issue a passport to the petitioner, considering Passport Application Registration No.TRYIF5490551323 dated 20.06.2023, in terms of Section 20 of the Passport Act, 1967, within the time stipulated by this Court.



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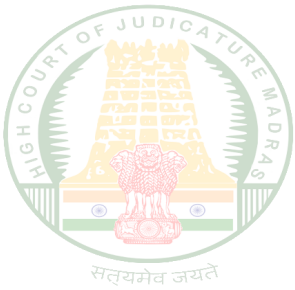
WEB COPY 2. The petitioner had earlier approached this Court in W.P.(MD) No.27893 of 2022, challenging the order dated 22.11.2022, whereby the petitioner's application for issuance of a passport was rejected. The said Writ Petition was disposed of on 30.01.2023 with the following observations:

“6. I was wondering if there was a way out. Advocate Shri.Arun Balaji, who was present in the court drew my attention to Section 20 of the Passports Act, 1967. The said provision reads as follows:

“Issue of passports and travel documents to persons who are not citizens of India.- Notwithstanding anything contained in the foregoing provisions relating to issue of a passport or travel document, the Central Government may issue, or cause to be issued, a passport or travel document to a person who is not a citizen of India if that Government is of the opinion that it is necessary so to do in the public interest.”

The reason for incorporating the aforesaid provision is set out in Clause 20 of Objects and Reasons in the following terms :

“Under this clause, a passport can be refused on the ground that the applicant is not a citizen of India. But, in special cases, having regard to international convention and usage, it may become necessary for the Government to issue a passport or travel document to a person who



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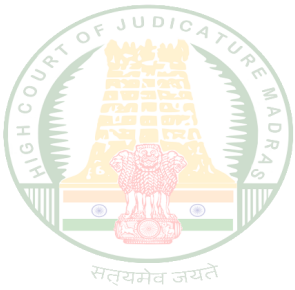


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is not a citizen of India. This clause seeks to give necessary powers to the Central Government in this behalf.”

The above provision empowers the Central Government to issue passport or travel document even to a non-citizen. Any power is coupled with duty. Parliament in its supreme wisdom chose to incorporate such a provision to deal with situations such as the one on hand. Of course, one requirement must be satisfied. The Central Government must be of the opinion that it is necessary so to do in the public interest. The question is whether the said power deserves to be exercised in this case.

7.The writ petitioner was born and brought up in India. Her parents have lost their roots in the country of their origin. The petitioner is not in a position to go to Srilanka and take a Srilankan passport. This is because, under Section 5 (2) of the Citizenship Act of Srilanka, a person born outside Ceylon on or after the appointed date shall have the status of a citizen of Ceylon by descent, if at a time of his birth, his father is a citizen of Ceylon and if, within one year from the date of birth or within such further period as the Minister may for good cause allow, the birth is registered in the prescribed manner. The materials on record do not indicate that the petitioner is a Srilankan citizen. Prima facie it appears that her birth was not registered and therefore, she is not a Srilankan citizen. She is not an Indian citizen either. She is for all practical purposes a stateless person. Now, she wants passport only to explore overseas employment opportunities. Right to earn one's livelihood and right to travel abroad are enshrined in Article 21 of the Constitution of India which applies to all persons, citizens and non-citizens alike. In these circumstances, granting passport to the petitioner under Section 20 of the Passports Act, 1967 is not going to prejudice the interest of the country. On the other hand,



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it would serve public interest. Attending to the needs of the refugees, asylum seekers and stateless persons is certainly a matter of public interest.

8.I came across an article by Anashwara Ashok titled “Religious Response to Refugees”. The relevant para reads as under :

“Hinduism promotes the concepts of ‘dharma’ and ‘vasudhaiva kutumbakam.’ According to the Hindu epic The Mahabharata, dharma requires that ‘one should never do that to another which one regards as injurious to oneself.’ It also refers to the duties every person is enjoined to follow regarding other human beings. Hence ‘dharma’ compels Hindus to respect and fulfil the needs of refugees. Similarly, ‘vasudhaiva kutumbakam,’ meaning ‘the world is one family,’ rejects the boundaries embedded in the world in the form of nationality, ethnicity, and religion, prompting Hindus to help refugees fleeing persecution and seeking asylum, irrespective of their differences from oneself.”

9.The Passports Act, 1967 opens with the following Preamble :

“An Act to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and for other persons and for matters incidental or ancillary thereto.”

Any Preamble is the key to understanding the mind of the law makers. The Preamble extracted above is self-explanatory. It is meant to cover the cases of non-citizens also.



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10. Let me refer to two International Conventions dealing with statelessness. The 1954 Convention on Status of Stateless Persons is designed to ensure that stateless people enjoy a minimum set of human rights. It establishes the legal definition of a stateless person as someone who is “not recognized as a national by any state under the operation of its law.” Simply put, this means that a stateless person is someone who does not have the nationality of any country. The 1954 Convention also establishes minimum standards of treatment for stateless people in respect to a number of rights. These include, but are not limited to, the right to education, employment and housing. Importantly, the 1954 Convention also guarantees stateless people **a right to identity, travel documents and administrative assistance**. The 1961 Convention on Reduction of Statelessness aims to prevent statelessness and reduce it over time. It establishes an international framework to ensure the right of every person to a nationality. It requires that states establish safeguards in their nationality laws to prevent statelessness at birth and later in life. Perhaps the most important provision of the convention establishes that **children are to acquire the nationality of the country in which they are born if they do not acquire any other nationality**. It also sets out important safeguards to prevent statelessness due to loss or renunciation of nationality and state succession [extracted from UNHCR website]. I am conscious that India is not a signatory to the said conventions. However, one can definitely seek guidance from them.

11. Universal Declaration of Human Rights, 1948 has been ratified by India. Article 2 reads as follows :

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property,



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birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-selfgoverning or under any other limitation of sovereignty.”

Article 13 reads as follows :

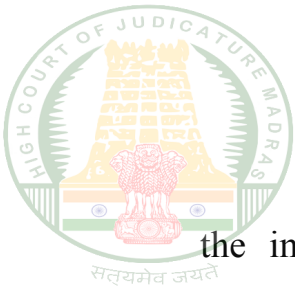
“(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.”

*12. In **Satwant Singh Sawhney v. D. Ramarathnam Assistant Passport** (AIR 1967 SC 1836), the Hon'ble Apex Court held that the expression "personal liberty" which occurs in Article 21 of the Constitution includes the right to travel abroad and that no person can be deprived of that right except according to procedure established by law. The same was reiterated in **Maneka Gandhi vs. UOI** (1978) 1 SCC 248.*

13. The petitioner has made out a case for relief. She is permitted to submit an application under Section 20 of the Passports Act. The second respondent is directed to consider her application and pass order thereon in the light of the observations made above as expeditiously as possible.”

3. In light of the above directions of this Court, the petitioner applied for a fresh travel document on 12.06.2023, which culminated in



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the impugned communication/order issued by the fourth respondent,

Section Officer (PSP-III), Ministry of External Affairs. The operative portion of the impugned communication/order dated 21.05.2024 reads as under:

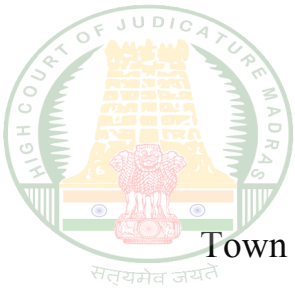
Subject: Issue of Certificate of Identity in r/o Kum. Harinaa Sritharan D/o Sritharan – Reg.

Passport Office, Tiruchirappalli may please refer to their letter no.TRYIF5490551323 dated 27/06/2023 regarding grant of Certificate of Identity to following applicant in compliance of the Hon'ble Madras High Court Order dated 30.01.2023.

S.No.	Name of the Applicant	Father's Name	Previously Nationality	Application No.
1.	Kum. Harinaa Sritharan	Sritharan	Stateless (as per Hon'ble High Court Order)	ARN-23-1007305263

Ministry denies No Objection to issue COI to the above mentioned applicant. The applicant may be advised to approach Deputy High Commission of Sri Lanka in Chennai to get passport to Sri Lanka.

4. The challenge to the impugned communication/order is primarily on the ground that it was passed without affording an opportunity to the petitioner. It is submitted that the petitioner was born in India on 24.02.2002 at the Government Hospital, Kodangipatti Village, Thanthoni



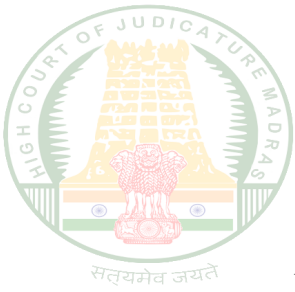
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Town Panchayat, while her parents were residing in the refugee camp at Rayanoor, Thanthonimalai, Karur District. It is further submitted that the petitioner's parents are Sri Lankan Nationals and that the petitioner does not hold citizenship in Sri Lanka.

5. It is submitted that the petitioner proposes to travel abroad in connection with her education. However, the fourth respondent has neither issued a passport nor a travel document, as directed by this Court in W.P.(MD) No.27893 of 2022, *vide* order dated 30.01.2023.

6. The learned counsel for the petitioner drew attention to the following certificates:

- i. Birth Certificate issued to the petitioner by the Executive Officer, Thanthoni Town Panchayat, Karur District, dated 11.06.2002.
- ii. Secondary School Leaving Certificate issued by the State Board of School Examinations, Tamil Nadu, wherein the petitioner's date of birth is recorded as 24.02.2002.
- iii. Transfer Certificate (T.C.) issued by the Principal, St. Theresa's Matriculation Higher Secondary School, North Pradakshnam Road, Karur, which is under the control of the Department of School Education, indicating that the petitioner completed Standard X in the year 2017.
- iv. Higher Secondary Course – First Year Mark Certificate and Higher Secondary Course – Second Year Mark Certificate



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issued by the State Board of School Examinations, Tamil Nadu.

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- v. Transfer Certificate (T.C.), Attendance Certificate, and Conduct Certificate issued by Cheran Matriculation Higher Secondary School, Vennaimalai, Karur.
- vi. Consolidated Statement of Marks and Provisional Certificate issued by Bharathiar University, Coimbatore.
- vii. Transfer Certificate (T.C.) issued by Michael Job College of Arts and Science for Women.
- viii. Aadhaar Card of the petitioner issued by the Government of India.

7. The learned Deputy Solicitor General of India, appearing for the first, second, and fourth respondents, submits that the petitioner is neither a citizen of India nor entitled to a travel document under Section 20 of the Passport Act, 1967. It is submitted that the matter was referred to the local police for verification, and that the police verification report was filed by the Superintendent of Police, Karur, stating that the petitioner is not an Indian citizen and was born in Sri Lanka.

8. That apart, it is submitted that the petitioner's application dated 12.06.2023 was examined by the Ministry in consultation with the concerned Division. It is submitted that, based on the said consultation,



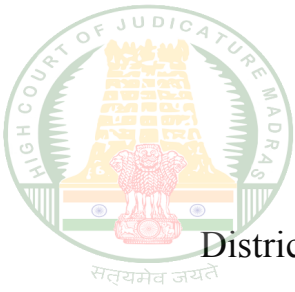
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the Ministry decided that the issuance of a Certificate of Identity to the petitioner may not be in the interest of the nation, and therefore, the petitioner's request was not acceded to. It is further submitted that it would be advisable for the petitioner to approach the Deputy High Commissioner of Sri Lanka in Chennai, expressing her intention to return to Sri Lanka, in order to obtain a one-way passport for the said purpose.

9. By way of rejoinder, the learned counsel for the petitioner submits that, since the petitioner was born in India and has not registered as a Sri Lankan citizen or as a National of Sri Lanka, there is no question of obtaining a one-way passport to return to Sri Lanka. It is further submitted that the petitioner has also been declared a stateless person.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Deputy Solicitor General of India appearing for the first, second and fourth respondents.

11. There are overwhelming records available to indicate that the petitioner was born in India and was issued a Birth Certificate dated 11.06.2002 by the Executive Officer, Thanthoni Town Panchayat, Karur



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District. Thereafter, the petitioner studied from Standard I to X at St. Theresa's Matriculation Higher Secondary School, North Pradakshnam Road, Karur, until the year 2017, and Standards XI and XII at Cheran Matriculation Higher Secondary School, Vennaimalai, Karur, until the year 2019. Subsequently, the petitioner pursued her undergraduate degree [B.Com. (Computer Applications)] at Michael Job College of Arts and Science for Women, affiliated to Bharathiar University, and completed the same in the year 2022.

12. Further, the overwhelming records indicate that the petitioner was born in India and has been residing in India. The petitioner has also been issued an Aadhaar Card by the Government of India. There are no records to indicate that the petitioner travelled from Sri Lanka or that she illegally entered India after she was purportedly born in Sri Lanka.

13. The impugned order, which is apparently based on internal discussions within the Department, has not taken into consideration all these aspects. Therefore, the impugned order passed by the fourth respondent is liable to be quashed. However, I am inclined to remit the case back to the fourth respondent to reconsider the same, after obtaining



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a fresh report from the police. In case the petitioner's application is proposed to be rejected again, all materials and information relied upon by the fourth respondent to reject the application shall be furnished to the petitioner, so as to enable her to make out her case. This entire exercise shall be completed, preferably, as expeditiously as possible, within a period of three months from the date of receipt of a copy of this order.

14. In the result, this Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

15.07.2025

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes/No

To

1. The Regional Passport Officer,
Regional Passport Office,
Municipal Water Tank Building,
W.B.Road,
Tiruchirappalli - 620 008.

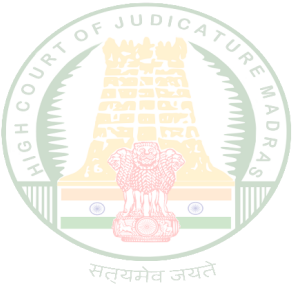
2. The Secretary,
Ministry of Home Affairs,
Union of India
Near Pragati Maiden,
New Delhi - 110 001.



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3. The Director of Refugees and Rehabilitation,
Ezhilagam,
Chennai - 600 005.

4. The Section Officer (PSP - III) Retary,
Government of India,
Ministry of External Affairs,
(PSP Division), Patiala House,
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C.SARAVANAN, J.

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