

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 27TH DAY OF AUGUST 2021 / 5TH BHADRA, 1943

WP(C) NO. 5930 OF 2018

PETITIONER/S:

FEMIN PANIKKASSERY
AGED 41 YEARS
AGED 41 YEARS, S/O. LATE P.K.SUBRAMANIAN, PANIKKASSERY
HOUSE, P.O.CHEMMANOR, PORKKALENGADU, THRISSUR,
PRESENTLY RESIDING AT QUASSIMYA TOWER, PO BOX NO.
66714, SHARJAH, UNITED ARAB EMIRATES.
BY ADVS.
SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH
AHAMMAD SAHEER M.A.

RESPONDENT/S:

- 1 UNION OF INDIA
REP BY ITS SECRETARY, MINISTRY OF EXTERNAL AFFAIRS
DEPARTMENT OF EXTERNAL AFFAIRS NEW DELHI - 110 001.
- 2 STATE OF KERALA
REP. BY ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
- 3 STATE POLICE CHIEF
POLICE HEADQUARTERS, THIRUVANANTHAPURAM - 695 010.
BY ADVS.
SRI. JAGADEESH LAKSHMAN, CGC FOR R1
N. MANOJ KUMAR, STATE ATTORNEY FOR R2 AND R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27.08.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

S. Manikumar, C. J.

Instant writ petition has been filed for the following reliefs:-

“i. Issue a writ of Mandamus or other writ, order or direction directing the respondents 1 & 2 to consider Exhibit P10 representation.

ii. Issue a Writ of Mandamus or appropriate Writ, order or direction directing the Respondents 1 & 2 to streamline the process of issuing Good Conduct Certificates/Police Clearance Certificates to the Job Visa aspirants seeking placements with the United Arab Emirates under a common system all over India.”

2. Short facts leading to the writ petition are as hereunder:-

According to the petitioner, United Arab Emirates (UAE) Authorities have announced that a certificate of good conduct and behavior would be a mandatory requirement for obtaining a new UAE work visa with effect from 04.02.2018. Unlike Foreign Nationals, there is no comprehensive system in India issuing authenticated good conduct certificates to its citizens. Hence the job aspirants/working

visa holders started submitting conduct certificates issued by various local authorities like Village Officer, Tahasildars, Municipal Councilors, District Police Chief (SP) etc. On account of these complications and confusions, the Consulate General of United Arab Emirates at Trivandrum (functioning for the States of Kerala, Tamil Nadu, Karnataka and Andhra Pradesh) stopped receiving working visa applications from 02.02.2018. Thereafter, the State Police Chief, Kerala, the 3rd respondent, issued a circular on 05.02.2018 stating that the Police clearance certificates issued by the District Police Chief (Superintendent of Police) is the near equivalent to the conduct certificates prescribed by the Government of United Arab Emirates and the applicants started submitting Police Clearance Certificates. The Police Clearance Certificates issued from various SP offices across India differs in its templates formats and even the emblem on letter head. Some certificates bear only the seal of the respective office whereas the PCC issued by various provincial governments in other countries have unique format for each country and looks elegant in representing their country among international community.

Petitioner has contended that all the Gulf Corporation Council (GCC) countries like Canada, Australia, New Zealand etc. are

accepting the Police Clearance Certificate issued by the Passport Offices after due Police verification. Now the Consulate General of UAE is not accepting the PCC issued from the Passport Office saying that the same has not declared as a valid conduct certificate by the Ministry of External Affairs, the 1st respondent. Earlier the Consulate used to accept the same without any further attestation, whereas under the present system, an applicant have to attest the same through a Notary Public, and then to be attested by the respective Home Department of the States, and again to be attested on behalf of the Ministry of External Affairs, through the passport offices, and finally by the UAE Embassy in India. This multiple attestation is a cause of concern for the applicants. Moreover, the spouses or children or dependents of the persons settled in UAE, and those in visit visa seeking job in UAE, have to come down to their home district and get PCC from the SP office. In the earlier system under the UAE regulation, they can apply for the same from his/her country of current residence, through Passport Service Centers (BLS) located in such countries, because that was approved by the Union Of India.

Petitioner has further contended that the latest development is that the SP office stopped issuing PCC from 14.02.2018 and the power

is delegated to the Station House Officer of respective Police station. The Consulate General of UAE has not responded to this decision. It is also uncertain whether this system is binding to the candidates all over the country; whether Union of India has declared the same as a legal document for conduct certificate and how Station House Officer derived power to issue PCC.

Petitioner has also contended that in order to overcome this confusion and anomalies, the Ministry of External Affairs, the 1st respondent, should come up with a procedure, streamlining the process for issuance of Conduct Certificate/Police Clearance Certificates, and also declare the Police Clearance Certificates issued by the Passport Offices as equivalent to Conduct Certificates of Indian Standards.

3. Based on the statement filed on behalf of the Union of India, represented by its Secretary, Ministry of External Affairs, Department of External Affairs, New Delhi – 110 001, the 1st respondent, Mr. Jagadeesh Lakshman, learned counsel representing the learned Assistant Solicitor General of India, submitted that issuance of good conduct certificates of those Indian emigrants going to Kuwait for employment and other places has been now streamlined, and that the

Regional Passport Officers are authorized by law to issue such good conduct certificates and they are already doing so.

4. For brevity, statement filed on behalf of the 1st respondent is reproduced:-

“3. It is submitted that no State Government Authority, including the State Police Department, is authorized to issue Good Conduct Certificate (GCC) for overseas employment to any country. It is the sovereign function of the Union Government to issue all such certificates through its authorized representatives.

4. It is submitted that the Regional Passport Officers are already authorized by law to issue such Good Conduct Certificates and they are already doing so for Indian emigrants going to Kuwait for employment. The issuance of a Police Clearance Certificate is one of the "miscellaneous services" under the Passport Rules, 1980.

5. The Regional Passport Officers will continue to discharge this function for Indian nationals going abroad, including UAE, for employment, wherever such certificates are required by the destination country. In case of Indians staying overseas for last 5 years or more and holding Indian passport, the Indian Mission/Consulate will issue the Good Conduct Certificate.

6. In view of the above, the processes for issue of a Police Clearance Certificate as explained by the Director General of Police, Kerala are flawed and infringe upon the jurisdiction of the

Union Government. All instructions issued by the State Police Department will, therefore, have to be cancelled or withdrawn.

7. Further, the Ministry of External Affairs has already taken up this issue with the concerned UAE authorities, at appropriate level, for acceptance of certificates issued only by the Regional Passport Officers, who are the only competent authority as per law to issue such certificates.”

Recording the above statement, writ petition is disposed of accordingly.

Sd/-

**S. MANIKUMAR
CHIEF JUSTICE**

Sd/-

**SHAJI P. CHALY
JUDGE**

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///TRUE COPY///

P. A. TO JUDGE

APPENDIX OF WP(C) 5930/2018

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE RELEVANT PAGES OF THE PASSPOR
OF PETITIONER BEARING NO. J8105128.
- EXHIBIT P2 TRUE COPY OF THE POLICE CLEARING CERTIFICATE
DATED 07.02.2018 ISSUED BY THE DISRICT POLICE
CHIEF KANNUR.
- EXHIBIT P3 TRUE COPY OF THE POLICE CLEARANCE CERTIFICATE
DATED 30.12.2016 ISSUED BY THE SR.SP, SBS NAGAR
PUNJAB.
- EXHIBIT P4 TRUE COPY OF THE ONE SUCH POLICE CLEARANCE
CERTIFICATE DAETD 25.01.2018 ISSUED BY THE
REGIONAL PASSPORT OFFICE, KOCHI.
- EXHIBIT P5 TRUE COPY OF THE POLICE CLEARANCE CERTIFICATE
ISSUED BY THE CONSULATE GENERAL OF INDIA, DUBAI
DATED 27.07.2017.
- EXHIBIT P6 TRUE COPY OF THE ONE SUCH POLICE CLEARANCE
CERTIFICATE DATED 06.09.2017 ISSUED BY
GOVERNMENT OF BANGLADESH.
- EXHIBIT P7 TRUE COPY OF THE ONE SUCH POLICE CLEARANCE
CERTIFICATE DATED 01.8.2016 ISSUED BY STATE OF
QATAR.
- EXHIBIT P8 TRUE COPY OF THE ONE SUCH POLICE CLEARANCE
CERTIFICATE DATED 21.11.2017 ISSUED BY THE
REPUBLIC OF PHILIPPINES.
- EXHIBIT P9 TRUE COPY OF THE ONE SUCH POLICE CLEARANCE
CERTIFICATE DATED 09.01.2018 OF GOVERNMENT OF
NEPAL.
- EXHIBIT P10 TRUE COPY OF THE E-MAIL DATED 14.02.2018
SUBMITTED BY THE PETITIONER.