Hindraf Makkal Sakthi Chief on Immigration blacklist

ARCHIVES 2012

Thursday, 26 July 2012 admin-s

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COMMENT It appears that Hindraf Makkal Sakthi chairman Waythamoorthy Ponnusamy is on the watchlist – generally considered the blacklist – of the Security and Passport Division of the Immigration Department.

His Malaysian passport, gathering dust in a drawer at the Malaysian High Commission in London, expired late 2010.

Waytha wants the Malaysian authorities to issue him with a new passport and apologise to him as well for “erroneously” requesting the British Government to help them seize his earlier document. Instead, to add insult to injury, the authorities appear to have since placed him on the Immigration watchlist “to deny him a passport”. There has so far only been an ominous silence from the Home Ministry on the demand for an apology.

Foreign Minister Anifah Aman to take action

Foreign Minister Anifah Aman, in a text message from Cambodia on Wed last at 2.42 am, disclosed that “I will inform him” when queried on Waytha’s passport woes. He didn’t clarify who he meant by “him”. It could mean the Home Minister or the Malaysian High Commissioner in London.

A check of Waytha’s MyKad No: 660716-03-5633 (obtained from him by text message) with website http://sspi2.imi.gov.my/Default.aspx drew the following response in less than one second: Sila rujuk kepada Pejabat imigresen terdekat. Status: Sah pada waktu dan tarikh semakan dibuat. Masa semakan: 0 saat. (Please refer to the nearest Immigration Office Status: Valid at day and time this checking performed. Masa Semakan (Checking time): 0 seconds). The MyKad number must be entered in the verification slot without the two dashes.

Tian Chua’s hypothetical question

Batu MP Tian Chua once tried not too long ago to seek clarification in Parliament on Waytha’s actual status. His “hypothetical question” did not make it past even the House Secretary who cited the Standing Order in dismissing it.

If there are no immigration status problems, the said website response will read: Keputusan Semakan: Tiada Halangan. Status: Sah pada waktu dan tarikh semakan dibuat. Masa semakan: 0 saat. (Checking result: No restriction. Status: Valid at day and time this checking performed. Masa Semakan (Checking time): 0 seconds.)

The website, Semakan Status Kawalan Imigresen (Verify Immigration Control Status), incorporates an electronic application system which Malaysians to check their immigration status before applying for passport and travelling.

Interestingly, the Hindraf Chief’s MyKad is still with Malaysian police who didn’t return the document to him after he was released just before several other Hindraf leaders and activists and its legal advisor, P. Uthayakumar, was held under the draconian Internal Security Act (ISA). Uthaya is Waytha’s elder brother and pro-tem secretary-general of the Human Rights Party (HRP) which bills itself as Hindraf’s political wing although the movement is apolitical and has denied having any such links.
Generally, the blacklist is confined to bankrupts, those owing the Inland Revenue Department or PTPTN (the National Higher Education Fund Corporation).

**Travel curbs violation of international law**

It's a violation of international law, human rights and the UN Charter to place travel curbs on other citizens by denying them valid travel papers to leave the country for any purpose whatsoever.

In the past, activists in Sarawak lobbying on behalf of the Penan communities and against illegal timber logging, had been turned back at the airports in the state while on their way to places in Malaysia outside Sarawak or abroad to bring attention to the burning issues at home.

It's not known whether these activists had taken the matter to Court.

Suhakam -- Malaysian Human Rights Commission -- activists, commissioners and members under watch have likewise been barred from Sarawak. The most infamous example is that of Jenny Lasimbang, a Suhakam commissioner from Sabah who replaced vice chairman fellow countryman Simon Sipaun when his term expired. She was on the Sarawak immigration watchlist for NGO activities before being appointed by Suhakam. She has since been allowed to enter Sarawak on a case-by-case basis on behalf of Suhakam only and is chaperoned around like in communist countries by a government minder.

**Cases hanging over Waytha’s head**

In the case of Waytha, he may have at least one sedition case hanging over his head. He’s isn’t sure what’s the exact status at the moment. He had previously expressed a willingness to face the charge or charges, if any, upon returning home.

The charges, if any, may have since lapsed after the United Kingdom accorded him political asylum and issued him with a UN travel document in lieu of his Malaysian passport. The passport was seized by British Immigration at Gatwick Airport on 28 April, 2008, as per a letter dated 17 March 2008 from the Malaysian Home Minister, when Waytha flew in from Switzerland after briefing the UN officials there on the human rights situation in Malaysia.

If the sedition or any charge/s had any basis, the UK Government would not have accorded him political asylum but would have instead denied him entry and deported him to Switzerland, his last port of embarkation. If the Swiss authorities had refused him entry, he would have to shuttle back and forth between Gatwick and Switzerland, refused entry at both points, or stay at either Gatwick Airport or the airport in Switzerland as a man wanted by no country.

International law which governs carriers as well decrees that any person refused entry at a port of call must be deported back to his last port of embarkation and not to his country if he has one.

**Waytha returns seized passport**

Waytha’s passport was sent to Imran Khan, his lawyer in London, shortly after it was seized from him by British Immigration.

Imran, acting on his client’s instructions, returned the passport to the Malaysian High Commission since it had been blacklisted in the British Immigration and subsequently all European immigration systems and that worldwide.
Again, Waytha had wanted a new passport and an apology. The Home Ministry in Putrajaya refused on the grounds that the passport had not expired and that no one could have two passports in his name. Again, there was no response to the demand for an apology.

When Waytha enters Malaysia on Aug 1, as he plans, he will be carrying only the UN travel document issued to him by the British Government. This document allows him to travel to any country except Malaysia. Should he travel to Malaysia with or without this document, his political asylum status in Britain as a human rights advocate will be automatically revoked.

**Touch and go for plans to return Aug 1**

It's touch and go for Waytha in Malaysia come Aug 1 when he arrives most probably with his wife, also a lawyer like him, and his only child and daughter who have both been with him in London since late 2010.

The daughter, still in primary school, led the Rose Rally in mid-Feb 2008 in Putrajaya, a month before the political tsunami of Sat 8 Mar, 2008, and nearly three months after the spontaneous Indian Uprising of 25 Nov, 2007 when 100,000 people took to the streets of Kuala Lumpur in an unprecedented demonstration of unity and solidarity to witness Hindraf's handover of a Memorandum to the British High Commissioner and addressed to Queen Elizabeth.

Waytha cannot be accused of entering his own country illegally. He could be taken straight to jail and brought to Court for the Judge to make a determination on his status. He could also be held in jail, where bail has been denied, if there are any charges pending against him.

Britain would not take it too kindly if he's immediately deported back to that country as he would have lost his political asylum status there by the very act of returning to Malaysia and moreover remains a Malaysian citizen. Under normal circumstances, political exiles are encouraged by the host country to return home only when there's a change of the ruling party. If a political exile refuses to return home for any reason whatsoever, there's nothing the host country can do about that under international laws and the UN Charter.

**First things first for Hindraf Chief**

If Waytha enters Malaysia not from Britain but from a 3rd country, for example Singapore, Putrajaya can try to refuse him entry. In that case, Singapore would be stuck with him. Singapore, however, could refuse Waytha entry when he arrives from Britain en route to Malaysia. That would be a violation of international law and the UN Charter.

Waytha, in a brief text response from London, said he would worry about how he's going to leave the country after he's allowed in. The Hindraf class action suit re-filed in London on July 2 may require his presence from time to time. The British Government has four months to reply to the Statement of Claim.

The four months gives Waytha enough time for him to seek a Judicial Review in Court for the re-issuance of his passport but provided he's first granted leave.