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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 555/2009

Date of decision: 18th August, 2009

BONDWELL ENTERPRISES	 Petitioner
Through	Mr. Chetan Sharma, Sr. Adv. with Mr. Manish Vashisht, Adv.

versus

UOI	 Respondent
Through	Mr. R.V. Sinha, Adv. with Mr. R.N. Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

ORDER

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1. The petitioner herein on 4th February, 1995 was granted certificate under Section 11 of the Emigration Act, 1983 to commence and carry on the business of recruitment for deployment of workers in foreign countries. Initially the certificate was valid for 3 years and for 100 workers.
2. The validity of the certificate was extended/renewed from time to time and on 22nd March, 2000, the certificate was modified and was made valid for 300 workers, which was later on increased to 1000 plus workers.
3. The petitioner last applied for renewal of the said registration

certificate on 3rd November, 2006 as the last renewal was expiring on 3rd February, 2007.

4. By order dated 19th January, 2007, the registration certificate was directed to be kept in abeyance in view of the FIR No.912/1998 under Section 420/102-B IPC read with Section 24/25 of the Emigration Act. The said FIR was registered in the year 1998 and a criminal case was pending against the petitioner in the Court.

5. This order dated 19th January, 2007 and a subsequent order dated 4th April, 2007 were challenged by the petitioner by way of W.P.(C) No. 5953/2007 before this Court. During the pendency of the said writ petition, the petitioner was acquitted by the criminal Court vide judgment dated 25th February, 2008. Noticing the aforesaid facts, W.P.(C) No.5953/2007 filed by the petitioner was disposed of vide judgment dated 29th September, 2008 with the following directions:-

“9. I have heard learned counsel for the parties, the application of the petitioner for renewal of the Registration Certificate was not being considered by the respondents due to pendency of a case arising out of FIR No.912/1998 under Section 420/12—B IPC read with Sections 24 and 25 of the Emigration Act, 1983, Police Station Hauz Khas, Delhi. The petitioner now stands acquitted by the Court. Certified copy of the order of acquittal has been filed. Present petition is disposed of with the following directions:

- 1) The respondents will consider the application of the petitioner for renewal of Registration Certificate.
- 2) Respondents shall grant a personal hearing to the petitioner within a period of six weeks from today.
- 3) Respondents shall pass a speaking order with respect to the renewal/fresh certificate to be issued to the petitioner.

10. Needless to say, in case the petitioner is aggrieved by the final order which may be passed by the respondents, it will be open to the petitioner to assail the same, in accordance with law.

11. Petition stands disposed of.”

6. By impugned order dated 11th December, 2008, the respondents have rejected the renewal/revalidation request made by the petitioner holding, inter alia, that there is no provision under the prevailing rules to revalidate/renew an expired registration certificate and the petitioner is required to apply for fresh registration certificate.

7. Counsel for the petitioner is justified in questioning the reasoning given in the order dated 11th December, 2008. What was pending before the Appellate Authority was that the renewal application dated 3rd November, 2006, which was kept in abeyance to await the judgment of the criminal Court vide letter dated 19th January, 2007. The said application had remained pending till the decision dated 29th September, 2008 in W.P. (C) No. 5953/2007. The renewal application was remanded back to the

respondents for a fresh decision.

8. The respondents along with the counter affidavit have filed on record office memorandum dated 6th May, 2008 on the question of renewal of the existing registration certificates. The said office memorandum deals how a request for renewal of registration certificate has to be dealt with when a serious complaint was/is pending against the recruiting agent. The said guidelines follow a middle path. In such cases it has been directed that the recruiting agent should be asked to apply for a fresh/new registration certificate but such cases cannot strictly be treated at par with cases for issue of a registration certificate for the first time. It is stated in the circular that the new registration certificate in such cases is in continuation of the earlier registration certificate and the following procedure is required to be followed:-

“3. As issue of a new RC in such type of cases cannot strictly be treated at par with the cases of a issue of a RC for the first time and that a new RC in such cases is, in fact, in continuation of the earlier one, and in consideration of the position explained above, it has been decided that when the RC of a recruiting agent is not renewed due to pending complaints and by the time the complaint is closed, the RC expires, a new RC will be issued to the RA (he should have qualified for renewal on the basis of his performance) without the requirement of the formalities such as inspection of the office premises and verification of character and antecedents, if the same

premises are used, which have been inspected earlier and the same person continues as the recruiting agent and no adverse report is there from the police earlier, after obtaining application in Form-I, Form-II and process fee (the fee paid for renewal, if not utilized for the purpose, will be adjusted for this and RA may not pay fee again). However, such applicants will be called for a personal interview to take stock of the overall situation.

4. A similar procedure will be adopted in case of appeals decided in favour of the RA, if the RC has expired during pendency of the appeal.

5. The applications in all such cases will be routed through the offices of POEs as is the case for fresh registration. While receiving such applications, the POEs shall follow these guidelines. Further, while forwarding the applications to the Office of the Protector General of Emigrants, the POEs will clearly indicate the category of the application, i.e., the applications are for issue of fresh RC on fast tract basis.”

9. The said circular dated 6th May, 2009 has not been challenged and questioned in the present writ petition.

10. After some hearing, counsel for the petitioner on instructions from Mr. Yogendra Singh, proprietor of the petitioner, states that the petitioner will file an application in terms of the said circular dated 6th May, 2008 but the respondents should be directed to dispose of the application expeditiously as the matter has remained pending since 2006. The request made by the petitioner is fair and reasonable. It will be open for the petitioner to apply for registration in terms of circular dated 6th May, 2008

and comply with the formalities mentioned in the Act, Rules and said circular. The application filed by the petitioner will be disposed of expeditiously preferably within a period of two months from the date formalities are completed.

The writ petition is accordingly disposed of.

SANJIV KHANNA, J.

AUGUST 18, 2009
NA/VKR