

GAHC010009032022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/350/2022

PARTHA KUMAR NATH
S/O PRODEP KUMAR NATH
RESIDENT OF HOUSE NO. 1A/201/62F WARD NO 1, AJACHAK PALLY,
HAILAKANDI TOWN, PO HAILAKANDI, DIST HAILAKANDI, ASSAM 788151

VERSUS

THE UNION OF INDIA AND ANR
MINISTRY OF EXTERNAL AFFAIRS, REPRESENTED BY JOINT SECRETARY
AND CHIEF PASSPORT OFFICER ROOM NO. 27, PATIALA HOUSE TILAK
MARG, NEW DELHI 11001

2:THE REGIONAL PASSPORT OFFICER

GUWAHATI 78100

Advocate for the Petitioner : G UDDIN

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 03-02-2023

Heard Mr. A.S. Tapadar, learned counsel for the petitioner and Ms. A. Gayan, learned Central Government Counsel for the respondents.

2. The petitioner has instituted the writ petition under Article 226 of the Constitution of India with the projection that while issuing Passport no. U3724932 in his name on 12.02.2021, he has been arbitrarily included in the category of persons for whom 'Emigration Check is Required'.

3. The case of the petitioner, in brief, is that the petitioner has the qualification of Higher Secondary pass from the Assam State Open School under the aegis of the Assam Higher Secondary Education Council [AHSEC]. The petitioner has further asserted that he passed the Pravesika Examination under the Assam Sanskrit Board, Guwahati in the year 2015. The petitioner's case is that in case a person has Matriculation qualification, such a person is to be given Non-ECR [Emigration Check Required] status in the Passport. It is the case of the petitioner that the Pravesika Examination conducted by the Assam Sanskrit Board is equivalent to the High School Leaving Certificate [HSLC] Examination conducted by the Board of Secondary Education, Assam [SEBA].

4. Ms. Gayan, learned Central Government Counsel has submitted that she has received instructions from the respondent no. 2 in the form of a Communication bearing no. Pass/Gau/22/2022 dated 08.12.2022. Ms. Gayan has submitted that after receipt of the application for Passport from the petitioner with the statement that he passed Pravesika Examination from the Assam Sanskrit Board in the year 2015, information was sought for from the Issuing Authority viz. Assam Sanskrit Board, Guwahati about the genuineness of the Certificate of Pravesika Examination, 2015 submitted by the petitioner along with his application seeking Passport. The letter sent from the end of the Passport Authority on 04.02.2021 to the Issuing Authority viz. Assam Sanskrit Board, Guwahati seeking clarification in respect of the Certificate of the Pravesika Examination, 2015 of the petitioner, had returned undelivered on

12.02.2021. Having received no information as regards the genuineness of the said Certificate of Pravesika Examination, 2015, the application for Passport submitted by the petitioner was processed and the Passport bearing no. U3724932 dated 12.02.2021 was issued to the petitioner recording his status in the ECR [Emigration Check Required] category.

5. Ms. Gayan, learned Central Government Counsel has submitted that the status of the petitioner came to be registered in ECR [Emigration Check Required] category in view of the fact that the letter seeking clarification about the genuineness of the Certificate of Pravesika Examination, 2015 from the Issuing Authority viz. Assam Sanskrit Board, Guwahati had returned undelivered. As the status of the petitioner regarding his eligibility to be included in the Non-ECR category could not be ascertained in time, the Passport was issued by including the petitioner in the ECR category. It is submitted by Ms. Gayan that the respondent no. 2 authority is ready and contemplating to examine the credentials of the petitioner vis-à-vis his claim for inclusion in the Non-ECR category by getting the genuineness of the Certificate of Pravesika Examination, 2015 verified from the Issuing Authority. For completion of such enquiry, a reasonable time period would be necessary. According to Ms. Gayan, a period of 6 [six] weeks would be the reasonable period. After completion of such enquiry, the respondent no. 2 will re-visit the matter once again and the decision with regard to the status of the petitioner for his inclusion either in the ECR category or in the Non-ECR category, as the case may be, will be taken thereafter. After such decision is taken, the petitioner will be apprised about such decision. If after the enquiry, it is found that the petitioner should be included in the Non-ECR category, the necessary rectification will be carried out in the Passport by following due procedure.

6. In view of above submissions of the learned Central Government Counsel, Mr. Tapadar, learned counsel for the petitioner has submitted that the instant writ petition may be closed at this stage with the liberty to the petitioner to approach again in the event the petitioner is aggrieved by the decision taken by the respondent no. 2 after the contemplated enquiry.

7. Ms. Gayan, learned Central Government Counsel has also agreed to the submission of Mr. Tapadar.

8. As the learned counsel for the parties have arrived at a consensus, this Court is of the considered view that as the respondent no. 2 is going to reconsider the entire matter regarding ECR or Non-ECR status of the petitioner by initiating an enquiry, the writ petition instead of keeping it pending, can be disposed of with the observation that the respondent no. 2 shall carry out and complete the contemplated enquiry, as indicated above by Ms. Gayan, within a period of 6 [six] weeks and thereafter, re-visit the matter with regard to the Passport of the petitioner. It is observed that if the petitioner is aggrieved by the decision taken by the respondent no. 2 after the enquiry, the petitioner would be at liberty to seek appropriate remedy under the law. It is also made clear that this Court has not made any observation with regard to the merits of the claim of the petitioner. The respondent authorities have to consider the case of the petitioner as per the extent law and procedure.

9. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant