

Court No. - 52

Case :- WRIT - C No. - 57232 of 2017

Petitioner :- Mohd. Firoz Akhtar Khan

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Komal Khare, Somesh Khare

Counsel for Respondent :- A.S.G.I., Shrawan Kumar Dubey

Hon'ble Saurabh Srivastava, J.

1. Supplementary affidavit preferred today by learned counsel for petitioner is taken on record.
2. Heard Sri Somesh Khare, learned counsel for petitioner and Sri Gautam Kumar Upadhyay, Senior Panel Counsel, Government of India, appearing for all the respondents.
3. The instant petition has been preferred for seeking direction in the nature of certiorari for quashing the orders dated 18.12.2015 and 11.07.2016 issued by the Joint Secretary (PSP) and Chief Passport Officer, Ministry of External Affairs through which the appeal preferred by the petitioner has been culminated into order dated 11.07.2016, wherein the petitioner has been given liberty to prefer a suitable application before the concerned court where criminal case is pending seeking NOC for his travel abroad in terms of the provisions contained in GSR 570 (E) dated 25.08.1993 or may submit fresh application after his acquittal in the pending criminal case.
4. It is the admitted fact that the order of sentence has already been challenged in Criminal Appeal No.2865 of 2011 before this Court and while entertaining the said appeal, a Coordinate Bench of this Court suspended the sentence of the appellant during pending of appeal vide order dated 29.07.2011.
5. Learned counsel for petitioner elaborated his arguments on the literal meaning of the legal circumferences that there is hardly any sentence available against the petitioner and as such, he is rightfully entitled for receiving passport to travel abroad being a normal citizen of the country.
6. Learned counsel for the respondents vehemently opposed the prayer as made in the petition and rebutted that stand taken up by

learned counsel for petitioner on the ground that till final outcome of the appeal, it cannot be determined that whether the sentence which is only suspended, preclude the petitioner from the judgment and order passed by the trial court, and as such, the provisions of GSR 570 (E) dated 25.08.1993 is fully applicable over the petitioner.

7. In view of the aforesaid facts and circumstances, the orders dated 18.12.2015 and 11.07.2016 issued by the Joint Secretary (PSP) and Chief Passport Officer, Ministry of External Affairs, are hereby quashed and set aside.

8. Petitioner is hereby directed to prefer a fresh application in the strict compliance of GSR 570 (E) dated 25.08.1993 before the appropriate court for seeking NOC for his travel abroad in terms of the same provisions.

9. The present petition stands **allowed** accordingly.

Order Date :- 19.10.2023

Vivek Kr.