

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WA.No. 2313 of 2015 () IN WP(C).15201/2015

AGAINST THE JUDGMENT IN WP(C) 15201/2015 DATED 16.10.2015

APPELLANT(S)/PETITIONER :-

ANDREAS LANGBRUGGER, AGED 47 YEARS,
S/O.STEFAN LANGBRUGGER, HAVING PERMANENT ADDRESS AT
VOLKER, TSTR 17, 1020 WEIN, VIENNA, AUSTRIA
PRESENTLY RESIDING AT TC-67/1628, BRIGHT ROAD,
NEDUMOM, KOVALAM, THIRUVANANTHAPURAM, KERALA - 695 527.

BY ADV. SRI.SHAIJAN C.GEORGE

RESPONDENT(S)/RESPONDENTS :-

1. UNION OF INDIA REPRESENTED BY SECRETARY,
MINISTRY OF HOME AFFAIRS, NDCC II BUILDING,
JAISINGH ROAD, NEW DELHI - 110 001.
2. COMMISSIONER OF POLICE AND FOREIGNERS REGISTRATION
OFFICER, THIRUVANANTHAPURAM CITY, KERALA - 695 001.

ADDL.RESPONDENTS 3 & 4 SUOMOTU IMPLEADED AS PER ORDER
DATED 26.6.2015 :-

ADDL.3.THE FOREIGNERS REGIONAL REGISTRATION OFFICER (FRRO),
BEING THE SUPERINTENDENT OF POLICE,
BUREAU OF IMMIGRATION, TRIVANDRUM - 695 001.

ADDL.4.THE SUB INSPECTOR OF POLICE,
DISTRICT SPECIAL BRANCH, TRIVANDRUM CITY - 695 001.

R1 - ADDL.R3 BY SRI.N.NAGARESH, ASGI
ADDL.R4 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 26-
10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.2313 of 2015

Dated this the 26th day of October 2015

J U D G M E N T

Shaffique, J.

The petitioner, a foreign citizen, has approached this Court seeking to quash Exts.P2 and P3 and for a direction to the respondents to give further opportunity to the petitioner to apply for extension of Medical visa.

2. The petitioner contended that he is an Austrian citizen and had initially come to India on a tourist visa on 31.10.2005 and gone back to Austria on 10.3.2006. Later, he became sick and again came to India seeking the possibilities of treatment under the Ayurvedic medicine. He was undergoing Ayurvedic treatment and had applied for Medical visa, which was granted for the period from 5.7.2007 to 4.7.2012. Thereafter it is extended from time to time and the last extension was for the period from 4.7.2014 to 3.7.2015, a copy of which was produced as Ext.P2. In Ext.P2, a special endorsement has been made as “granted last and final extension of medical visa by MHA”.

3. The petitioner contended that he is suffering from Multiple Sclerosis and is undergoing treatment under the

Ayurvedic medicine. In order to continue the treatment, he will have to remain in India and therefore, he has approached this Court seeking the aforesaid relief.

4. The learned Single Judge, after considering the matter in detail and after calling for a report from the Sub Inspector of Police, District Special Branch, Thiruvananthapuram, opined that the enquiry report discloses that the petitioner did not suffer from any serious illness to allow him to remain in India. The learned Single Judge observed that as far as the decision of the authority is concerned, this Court can interfere only when such a decision would amount to threat to the life of a person. It is also observed that such matters have to be decided by the Ministry and until such a decision is taken by the Ministry, it may not be possible for this Court to interfere in the matter. Further, it is observed that the petitioner should be given time upto 30.10.2015 to leave India.

5. Learned counsel for the appellant/petitioner would submit that the appellant is not in a position to travel abroad as he is under treatment by an Ayurvedic Physician. That apart, his mother is intending to come to India to visit the appellant and therefore, he may be given an opportunity to reside in India.

6. We do not think that the reason, which the appellant had mentioned including that he is incapacitated, be a valid reason

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for extension of period of visa. Visa is granted by the Government of India based on certain parameters, which cannot be diluted by interference of this Court. When a foreign visa expires, it is the obligation of the State to ensure that the person has to be sent back. As far as the extension of the period of visa is concerned, it is for the Ministry to consider the same, for which, this Court cannot exercise power of judicial review. As matter stands now, since the last extension of the visa was granted to the petitioner by clearly indicating that it is the final extension, the learned Single Judge was justified in not issuing any direction as sought for. However, time was given to the petitioner till 30.10.2015 to leave India. We do not find any error in the judgment of the learned Single Judge to exercise the appellate jurisdiction.

Accordingly, this Writ Appeal is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

//TRUE COPY//

P.A. TO JUDGE