

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9481 of 2014

=====

Ashok Kumar Agarwal, son of late Sawarmal Agarwal, residing at Bharat Auto Service, Mirchai Bari, P.S. - Sahayak, District - Katihar, State - Bihar.

.... Petitioner

Versus

1. The Union Of India Through Secretary Ministry Of External Affairs, Government Of India, New Delhi.
2. Chief Passport Officer, Ministry Of External Affairs, Government Of India, New Delhi.
3. Regional Passport Officer/ Superintendent, Regional Passport Office, Maurya Lok Complex, Patna.
4. Passport Officer, Regional Passport Office, Maurya Lok Complex, Patna.
5. Assistant Passport Officer, Regional Passport Office, Maurya Lok Complex, Patna.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. N.K. Agarwal, Sr. Advocate

: Mr. Kumar Manish, Advocate

: Mrs. Aditi Hausaina, Advocate

For Union of India : Mr. Anshuman Singh, Advocate, CGC, UOI

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 12-04-2016

Heard parties.

Petitioner is aggrieved by order dated 04.09.2013 contained in Annexure-3, by which, the State Passport office has communicated him that his response is not found satisfactory and, as such, he was directed to surrender his passport in the passport office within 21 days and furnish the Court order as per Section 6(2)(f) of the Passport Act, 1967 from the concerned Court to retain passport facilities to travel abroad.

It is contended on behalf of the petitioner that the form

which was required to be filled up by him included the declaration by him, which is extracted as under :

“ Furthermore, I solemnly affirm that I have not been charged with criminal proceedings nor is there any arrest warrant or summon pending before any Court of Law in India against him.

XXXXX ”

It is intended that though a criminal case was registered against him and which was disclosed by him before the police which would appear from the verification report which has been appended as Annexure-A, however, since neither charges were framed against him nor any warrant or summon issued against him, he has stated that there is no criminal case pending against him in any court of law for which charges have been framed. This was in view of the show cause notice issued on the petitioner after adverse police verification report having been received by the passport authority. To explain as to why action should not be taken against him to impound his passport and take action under Section 12(1)(b) and 10(3)(e) of the Passport Act, 1967, the petitioner's claim to have filed a detailed reply, a copy of which has been appended as Annexure 2.

The sole grievance of the petitioner at the time of hearing is that though a detailed reply was submitted by him there is no consideration of any ground raised in his reply.



Learned counsel appearing for Union of India has submitted that a detailed counter affidavit has been filed. Police verification report is adverse and petitioner in his reply has also stated that he has read the Passport Act, Section 6 (2)(f) of which clearly states that if a criminal proceeding is pending against the petitioner then the authority may refuse to grant passport and also there is appellate forum available under Section 11 to the petitioner.

However, in my considered opinion, it is well settled principle that if any action or order of the authority is going to visit a civil consequence upon a person or a party then adherence to Principle of Natural Justice could be mandatory. A show cause notice would have to be issued and after reply is filed by such person that should be considered. Consideration does not mean that that would be done in a bald manner by writing one sentence that his explanation is not found satisfactory rather there should be some reason assigned as to why the grounds raised by such person in his reply were not found to be tenable by the concerned authority.

In my view, the order impugned does not reflect as to what was going on in the mind of the authorities while passing adverse order against the petitioner because nothing has been stated as to why the petitioner's reply has not been found to be tenable. In my view, such order cannot be sustained in law.

Having held so, in my view, there is no requirement for relegating the petitioner to the appellate authority. As a result, this writ application succeeds and the order contained in Annexure-3 is quashed and set aside. The matter is remitted back to the Passport Authority to pass a fresh order in accordance with law considering the grounds raised by the petitioner. The petitioner may also be granted opportunity of hearing personally or through his counsel. It is expected that the entire exercise would be completed within a period of three months from the date of receipt/ production of a copy of this order. The petitioner would be required to cooperate in the matter. He would have to appear on the date of hearing without seeking adjournment, failing which, the authority concerned would be at liberty to proceed in the matter even in his absence. In any case the final order should be a reasoned one.

(Dr. Ravi Ranjan, J.)

rinkee/-

U			
---	--	--	--