

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10948 of 2016

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Mohammad Azim @ Azeem, S/o Late Zainul Haque @ Ishaque, Resident of
Village- Pilakhwara, P.S.- Keoti, Dist- Darbhanga.

.... Petitioner

Versus

1. Union of India through its Secretary, Ministry of External Affairs, New Delhi
2. Passport Officer, Regional Passport Office Mouryalok Market Block D Second
Floor Patna Bihar

.... Respondents

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Appearance :

For the Petitioner : Mr. Md. Shahnawaz Ali, Advocate

For the Respondents : Mrs. Nivedita Nirvikar, C.G.C.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-08-2016

Heard parties.

Through this writ application, the petitioner seeks
direction to the respondent no.2 to issue passport to him for the
purpose of Haj.

It is contended on behalf of the petitioner that his
application is still pending. Petitioner further claims that though he
has filed certified copy of two orders under which the court below
has granted permission to him to go outside the India for the purpose
of Haj, no decision is being taken rather a letter has been written to
the police to verify the genuineness of the order concerned.

In the counter affidavit filed by the respondents, it is
stated that the petitioner had suppressed the fact in his application for
grant of passport that he is involved in two criminal cases. At the time

of verification, it came to the knowledge that such cases are pending against the petitioner and, as such, his application can be rejected on such ground alone. Looking at the conduct of the petitioner, the police authorities were directed to verify regarding passing of such order by the court below.

On such assertion having been made by the parties, this Court had called for the original records of the case and it is found that such orders, as contained in Annexure 2 and 3, have been passed by the respective courts.

Learned counsel for the Union of India has also perused the records and she is also satisfied that the orders are there in the records.

However, from Annexure 2, it appears that the order was passed permitting the petitioner to go Saudia Arabia for the purpose of pilgrimage but Annexure 3 merely states that he has been granted exemption from personal appearance under Section 317 Cr.P.C. till October, 2016 but there is no such specific permission having been granted by the court.

Learned counsel for the petitioner says from the records that he has raised such issue in the application that he wants to go to Saudia Arabia, however, that could not have been incorporated in the order.

Per contra, it is contended on behalf of the Union of

India that even if it is assumed that such assertion is there in the application but it does not reflect in the order passed by the competent court, it would have two meanings. Either he did not press it at the time of hearing or if the same was pressed, the court has not accepted his prayer.

Be that as it may, since such exemption till October 2016 has admittedly been granted by the court below and in one case there is express order permitting him to go for Saudi Arabia, in my view, that order is also required to be taken in that spirit and, as such, in my considered opinion, there is no impediment in issuance of passport on the aforesaid ground. As the matter is urgent, let a final decision be taken by the Passport Officer. If such order is in favour of the petitioner then let the passport be delivered to him within one week.

Let the records be returned forthwith to the concerned courts.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
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