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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION No.12784 OF 2016

Mr. Samip Nitin Ranjani

....Petitioner

Vs.

Union of India and Ors.

....Respondents

Ms. Krupali Hiren Rajani for the Petitioner

Mr. D.P. Singh a/w. G.R. Sharma for Respondent Nos.1 and 2

Mr.P.G. Sawant -AGP for Respondent No.3

CORAM : V. M. KANADE &

Ms. NUTAN D. SARDESSAI, JJ.

DATE : NOVEMBER 30, 2016

P.C. :

1. We have heard the learned counsel appearing on behalf of the Petitioner, the learned counsel on behalf of Respondent Nos.1 and 2 and the learned AGP for Respondent No.3-State.

2. The Applicant/Petitioner had filed an application for renewal of passport before the Passport Authorities and prior to that the Applicant had also filed an application before the Metropolitan Magistrate, 27th Court, Mulund. The Learned Magistrate was pleased to direct the Applicant to make an application to the competent authority for renewal of the passport as per the Passports Act, 1967. Thereafter, again the

Passport Authorities had renewed the passport only for a period of one year. The Applicant/Petitioner again moved before the Learned Metropolitan Magistrate and he was asked to again make an application before the Competent Authorities for renewal of passport.

3. The grievance of the Petitioner is that the Passport Authorities, instead of renewing the passport for a period of 10 years as provided under the provisions of the Passports Act, 1967, has renewed the passport only for a period of one year. The learned counsel for the Petitioner submitted that by an order dated 7.12.2013, the Learned Magistrate had, in fact, mentioned in his order that the Passport Authorities should renew the passport as per the provisions of the Passports Act, 1967. She has invited our attention to the order passed by this Court dated 13th March, 2014 passed in Writ Petition No. 361 of 2014 in the case of **Narendra Ambwani v/s. Union of India**. It is submitted that this Court had in term held that if a Magistrate gives a direction to make an application under the Passport Act, then Passport Authorities can renew the passport for a period of 10 years. In the present case, a complaint was filed against the Petitioner for the offences punishable under section 353, 332, 427, 504 r/w. 34 of Indian Penal Code and section 184 of the Motor Vehicle Act. Charge-sheet has been

filed against him. Since the Petitioner is a Cabin Crew In-charge, he has to travel abroad through out the year. It is a matter of common knowledge that in respect of some of the countries, the visa is not granted unless the passport is valid for more than six months.

4. In our view, the ratio of the judgment of this Court in the case of **Narendra Ambwani (supra.)** would squarely apply to the facts of the present case. The Division Bench of this Court has issued guidelines which are to be followed by the Respondents on the receipt of application for renewal of passport. It is observed in paragraphs 10 and 11 as under:

“10. In the circumstances, we propose to issue guidelines to be followed by the Respondents on receipt of the applications for renewal of the passports, in all cases, where the Magistrate's court has directed that the passport may be renewed as per the “Rules”.

11. Accordingly, we issue the following directions :-

(a) In all cases where the Magistrate's court directs renewal of the passports under the Rules, the Passport Rules, 1980 shall apply and passports other than for a child aged more than 15 years shall be renewed for a period of ten years or twenty years as the case may be from the date of its issue. All

qualifying applicants are entitled to have passport renewed for at least ten years. The Regional Passport Office shall renew the passports of such qualifying applicants at least for ten years.

(b) In case where the passports are valid and the applicants hold valid visas on existing passport, the Regional Passport Officer shall issue the additional booklet to the same passport provided the applicant had obtained permission to travel abroad.

(c) If the learned Magistrate passes an order making the reference to the said Notification No. G.S.R. 570(E) dated 26th August, 1993, the passport shall be renewed only for such period that the Magistrate may specify in the order or as otherwise specified in the said Notification where the passport of the applicant is valid for less than one year, the additional booklet may be issued subject to the orders to be obtained in this behalf only of the Magistrate concerned.

5. In the present case, the learned Magistrate has clearly observed that the application for renewal of the passport should be made as per the Act and the Rules framed thereunder. It is not in dispute that the Magistrate has not given a direction that passport should be renewed as per the Notification which has been issued under the provisions of Section 6 (2) (f) of the Passports Act, 1967.

6. In view of the directions given by this Court in the said

judgment, therefore, the Respondents were duty bound to follow the said directions and ought to have renewed the passport for a period of ten years. It has to be borne in mind that whenever a criminal complaint is pending against an applicant, who wishes to travel abroad, the Magistrate alone has a jurisdiction to impose conditions regarding his right to travel abroad. If the Magistrate is satisfied that the Applicant should not be permitted to travel abroad, he can reject his application. However, when an application is made for renewal of passport, the Passport Authorities have to adhere to the provisions of the Act and the Rules framed thereunder. It appears that the Central Government has issued a Notification by exercising a power vested in them under section 6(2) (f) of the Passports Act, 1967 and in the said Notification, it has been mentioned that the passport can be renewed for a period of one year. There being an ambiguity under the provisions of the Act and the Rules and the Notification issued by the Passport Authorities, this Court was pleased to clarify the said ambiguity in the case of **Narendra Ambwani (supra.)**. The Passport Authorities do not have the right to decide whether the accused has a right to travel abroad or not and that right is vested in the Magistrate, who can impose conditions if an application is made, seeking permission to travel abroad. The Apex Court in the case of **Maneka Gandhi vs.**

Union of India [1978 SCR (2) 621] has held that the right to travel for the purpose of business and service is a part of a fundamental right, subject to reasonable restrictions, which are imposed by the Act and by the Court. In the present case, the Applicant on account of his service as a Flight Person has to travel abroad continuously and there is no possibility of absconding since he has to return back along with the flight. Taking into consideration the aforesaid facts, we direct the Passport Authorities to renew the passport for a period of 10 years. It is clarified that, however, the Applicant will have to apply to the Magistrate seeking permission to travel abroad. If such an application is made, the Magistrate may impose such conditions as deem fit and proper.

7. If such an application is already filed and permission is granted, then it is not necessary to file a separate application. If application for renewal of passport is made, it should be decided expeditiously within a period of three weeks. The writ petition is allowed and disposed of in the aforesaid terms.

Ms. NUTAN D. SARDESSAI, J.

V.M. KANADE, J.