

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.909 OF 2017

Shri Naresh Vinayak Shet Nagvekar
major of age,
son of late Vinayak Shet Nagvekar,
r/o H.No.590, Pilimbi, Siolim,
Bardez Goa. 403 517

... Petitioner

Versus

1. The Regional Passport Officer,
having office at Regional Passport Office,
Passport Bhavan,
Panaji Goa. 403 001.

2. The Assistant Passport Officer (PG),
having office at Ministry of
External Affairs (CPV Division)
Patiala House Annexe, Tilak Marg.,
New Delhi.

3. Senior Superintendent (Policy)
with office at Passport Bhavan,
EDC Complex,
Patto Plaza, Panaji Goa. 403 001.

4. The Chief Passport Officer,
CPV Division, Patiala House Annexe,
Tilak Marg,
New Delhi.-110 001.

.... Respondents

Mr. Deep Shirodkar, Advocates for the Petitioner.

Mr. M. Amonkar, Advocate for the Respondents.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 6 December 2017.

ORAL JUDGMENT (Per N. M. Jamdar, J)

Rule. Rule made returnable forthwith. The Respondents waive service.

2. The Petitioner has sought a writ to direct the Respondents-Passport Authorities to comply with an order passed by the Appellate Authority dated 10 January 2017 allowing the application of the Petitioner for issuance of passport.

3. The Petitioner had applied for a passport in the year 1984, which was granted and renewed from time to time. On 30 November 2015, the Petitioner filed yet another application for renewal. The application for renewal was rejected by Respondent No.1-Regional Passport Officer Goa. Against the order of rejection, the Petitioner filed an appeal to the Chief Passport Officer-the Appellate Authority. The Chief Passport Officer allowed the appeal of the Petitioner by an order dated 10 January 2017. Since the order

passed by the Appellate Authority was not being complied with by Respondent No.1-Regional Passport Officer, and the Respondent No.1 was insisting again for a fresh application, the Petitioner filed the present petition.

4. On 1 November 2017, the following order came to be passed.

“The learned Standing Counsel for the Respondent- Passport Officer submits though it is correct that order is in favour of the Petitioner, but there are some procedural difficulties in issuance of the Passport. He states that a fresh application by the Petitioner will have to be made.

2. If the Appellate Authority has already issued an order in favour of the Petitioner, we do not think it necessary that another application needs to be made by the Petitioner. This is nothing, but an internal formality. The original application of the Petitioner must be on record. The Petitioner has gone through enough formalities already. We direct the Respondent-Authority to consider the Petition itself as an application and proceed to issue the Passport to the Petitioner. A copy of the Petition is already served on the Authority. We hope and expect that the Passport Authorities will issue the Passport before the next date and the action of the Passport Authority should not result in needless harassment of the citizens.

S.O. 8 November 2017.

All parties to act on duly authenticated copy of this order.”

5. Thereafter, on 8 November 2017 further order was passed.

“The learned Counsel for the Petitioner hands over an additional affidavit stating that again the Petitioner was asked to sign the form which according to the learned Counsel for the Petitioner, was not in consonance with the order passed on 1 November 2017.

2. Since, it is the contention of the learned Counsel for the Petitioner that no such formality was required after the order was passed by the Chief Passport Officer in his favour and that it is the contention of the learned Counsel for the Respondents that even though the Chief Passport Officer has passed an order in favour of the Petitioner the formality of applying again online is necessary, the issue can be resolved by directing the Chief Passport Officer to clarify the position so that it will serve as guideline to the Regional Passport Officer as well.

3. The Chief Passport Officer to clarify on affidavit as to where an Appeal under Section 11 of the Passports Act, 1967 is allowed, what further action a successful party needs to undertake to get the passport.

4. The learned Counsel for the Respondents submits that as far as the petitioner's passport is concerned it has been sanctioned and sent for police verification and it is expected to be delivered within a week.

5. The petitioner will join the Chief Passport Officer as a party Respondent. Leave to amend for that purpose is granted. Amendment to be carried out during the course of the day. Issue notice to the newly added Respondents, returnable on 6 December 2017.”

6. The learned counsel for the Respondents states that the Passport has been issued to the Petitioner which the learned counsel for the Petitioner accepts.

7. However, the issue raised by the Petitioner as to not issuing the passport to the Petitioner inspite of the Appellate order and the methodology to be adopted needs to be addressed so that such situation can be avoided in future, an affidavit directed to be filed by the Chief Passport Officer. The learned counsel for the Respondents has tendered an affidavit in reply by the Chief Passport Officer, Ministry of External Affairs, New Delhi dated 27 November 2017.

8. In the affidavit sworn by the Chief Passport Officer, he

has stated that the application for passport is processed online in electronic file mode and once the electronic file in PSP system is closed, the file cannot be processed further. The Chief Passport Officer has explained that the electronic file of the Petitioner was erroneously closed by the Regional Passport Office prior to the disposal of the appeal. As a result, the Regional Passport Office could not proceed to implement the order passed in the appeal. The Chief Passport Officer has stated that this action of Respondent No.1 is an aberration and in normal circumstances the orders of the Appellate Authority are implemented.

9. The learned counsel for the Respondents states that taking clue from this incident, instructions are issued by the Department not to close the electronic file regarding the application till the disposal of the appeal. The statement is accepted. It is obvious that if this course of action is adopted, that is of keeping the electronic file open till the disposal of the appeal, there will be no need for the applicant to make a fresh application for passport if the order of appeal is in favour of the applicant.

10. Accepting the explanation of the Chief Passport Officer that there was a mistake and the case of the Petitioner was an aberration and that the instructions are issued to ensure that such

incident will not occur in future and that the passport has already been issued to the Petitioner, it is not necessary to take the matter further. The Writ Petition is accordingly disposed of in above terms.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.