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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7577/2017**

TAMDING DORJEE

..... Petitioner

Through: Mr Ashish Pandey, Mr Ronak, Ms
Pankhuri Jaiswal, Mr Rishi Kapoor
and Mr Nikhil Mishra, Advocates.

versus

**GOVT OF INDIA MINISTRY OF EXTERNAL
AFFAIRS**

..... Respondent

Through: Mr Ajay Digpaul, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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07.11.2017

VIBHU BAKHRU, J

CM No. 39922/2017

1. This is an application for early hearing. For the reasons stated in the application, the same is allowed.
2. The application stands disposed of.

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3. With the consent of the parties, the petition is taken up for final hearing.
4. The petitioner has filed the present petition, *inter alia*, challenging the objection report dated 13.02.2017. The petitioner had applied for a passport, however, the said facilities had been denied to the petitioner pursuant to the notification dated 30.05.2017, which requires that certain conditions be

fulfilled before a passport can be issued to persons born of parents of Tibetan origin. The said notification is set out below:-

“To,
The Passport Officer,
Passport Office,
3rd Floor, Railway Board Building,
Near SBI, The Mall, Shimla,
Himachal Pradesh-171003.

**Subject: Regarding Surrender/Cancellation of
Registration Certificate by Tibetan Refugees
issued by MHA.**

Sir,

I am directed to refer to your letter No. PO/SML/MEA/22/2015 dated 15/05/2017 on the subject cited above and to say that the matter has been examined in this Division in consultation with the East-Asia Division of the Ministry

2. RPO, Shimla in addition to the conditions prescribed in Ministry's O.M. of even no. dated 17/03/2013 and Passport Manual, 2016, may process the pending passport applications of TR applicants subject to fulfilment of following additional requirement:-

- (i) Registration/Refugee Certificate (RC) and Identity Certificate (IC) should be cancelled;
- (ii) Applicant should not be staying in any of the designated Tibetan Refugee settlements;
- (iii) Applicant should be asked to furnish an undertaking/declaration on plain paper to the effect that he is no longer enjoys CTA benefits;
- (iv) Applicant should be asked to provide an

undertaking/declaration on plain paper that he no longer enjoys any privileges including subsidies which would have accrued to him by virtue of being a RC holder and that these have been returned/surrendered.

3. This issues with the approval of JS(PSP) & CPO.

Yours faithfully,

S/d

(Surendera Kumar)
Under Secretary (PV.I)”

5. As observed in the order dated 04.09.2017, this Court finds no infirmity with the condition that the registration / refugee certificate and Identity card be cancelled. The petitioner is claiming to be the Citizen of this Country and, therefore, would not be entitled to retain the Identity Certificate (IC) which, this Court is informed, is issued as a travel document for Tibetan refugees. The conditions that the applicant must furnish an undertaking/declaration on a plain paper to the effect that he no longer enjoys CTA benefits or privileges and subsidies by virtue of being an RC holder are also not objected to by the learned counsel for the petitioner. And, therefore, this Court is not called upon to examine the same.

6. The only question that remains is whether the passport facilities can be denied to the Indian citizens who are staying in designated Tibetan refugee settlements.

7. The learned counsel appearing for the respondent has been unable to point out any provision in law, which entitles the passport authorities to deny passport to an Indian citizen on the basis of where he resides in this country. It

must be clarified that this Court is not called upon to examine whether the petitioner is entitled to reside in designated Tibetan refugee settlements or not; the limited scope of examination in this petition is whether the respondent can deny passport facilities to an Indian citizen on the basis that he resides in such settlements.

8. Section 6 of the Passport Act, 1967 provides for the power of the passport authority to refuse passport and travel documents. The said Section reads as under:-

“6. Refusal of passports, travel documents. etc.

(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and no other ground, namely: -

(a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;

(b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;

(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country,

(d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause(c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: -

- (a) that the applicant is not a citizen of India.,
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India.,
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;
- (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;
- (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;
- (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;
- (h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;
- (i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.”

9. Sub-section (2) of Section 6 of the Passport Act, 1967 expressly provides that the passport can be denied only on the ground listed therein and “no other ground”. In the present case, none of the grounds as set out in Section

6 of the Passport Act, 1967 are applicable. Thus, clearly, the passport facilities cannot be denied to the petitioner based on the notification dated 30.05.2017.

10. In view of the above, the respondents are directed to process the petitioner's application for a passport as expeditiously as possible and in any case within a period of four weeks from today. The petitioner shall also surrender his RC/IC Card within the said period to the concerned authority.

11. The petition is disposed of with the aforesaid directions.

12. The hearing fixed on 10.05.2018 stands cancelled.

NOVEMBER 07, 2017
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VIBHU BAKHRU, J

