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

+ **W.P.(C) 7760/2016 and CM APPL.Nos. 40862/2016 & 32033/2016**

AMITABH SINHA

..... Petitioner

Through: Mr Avneesh Garg and Mr Mahinder
Pratap, Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr Umesh Sharma, Senior Panel
Counsel along with Mr Abhishek
Khanna, Govt. Pleader for R-1 to 3.
Ms Deepali Gupta, Advocate for
applicant.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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26.07.2017

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

- "a) Pass an order issuing a Writ of Certiorari or any other appropriate writ, order or direction calling for the records of the case pertaining to the revocation of the passport of the Petitioner bearing no. Z2113298 and after perusing the said records, quash such revocation as being illegal, null and void;
- b) As a consequence of the aforesaid revocation, issue a Writ of Mandamus to the Respondents for restoring the Passport No. Z2113298 of the Petitioner;"

2. The petitioner's grievance is that his passport has been revoked by the passport authority without issuing him any show cause notice and without giving him any opportunity of being heard.

3. The petitioner's passport was revoked by an order dated 17.05.2016 by the Consulate General of India in New York on grounds stated in Section 10(3)(e) and (h) of the Passport Act, 1967. The petitioner claims that this order was also not served on the petitioner. Section 10(3)(e) and (h) are set out below:-

"10. Variation, impounding and revocation of passports and travel documents

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(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document,-

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(e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India;

XXXX XXXX XXXX XXXX

(h) if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made."

4. It appears that the sole reason for revocation of the passport is the allegation that the petitioner has been avoiding service in various legal proceedings that have been instituted by his estranged wife. The learned counsel for the respondent has also pointed out that a look out circular (LOC) had been issued by the Commissioner of Police, Bangalore dated 23.12.2015 in connection with one of the FIRs that was lodged by the petitioner's wife.

5. The attention of this Court is drawn to the order dated 09.09.2016 passed by the Karnataka High Court in the W.P. no. 48962/2016 captioned as "*Karthickeya v. Amitabh Sinha and Anr.*", whereby the High Court has directed the officers of respondent no.2 (Government of India) to restrain the petitioner from travelling abroad without obtaining further orders of that Court. The learned counsel appearing for the petitioner's wife (who has filed an interim application) has also handed over a copy of the order dated 09.11.2016 passed by the High Court of Karnataka at Bangalore in W.P. no. 49597/2016 captioned as "*Sunita Motwani & Anr. v. Amitabh Sinha*" wherein the petitioner has been directed not to leave the country till the cases are settled. The learned counsel for the respondents has also drawn the attention of this Court to an order dated 03.10.2016 passed by the High Court of Karnataka in W.P. no. 48962/2016 directing respondent therein (Central Government) to bring to the attention of this Court, the proceedings pending in Karnataka.

6. It is apparent from the above that there are certain disputes that have arisen between the petitioner and his wife and are pending before the courts

in Karnataka. The petitioner's wife has also filed complaints which are pending at various stages. It also *prima facie* appears that the petitioner has not been participating in those proceedings. However, the learned counsel for the petitioner states that the petitioner did not have notice of the proceedings earlier, but is now aware of the proceedings mentioned above and is participating in the said proceedings.

7. The limited scope of examination in the present case is the validity of the decision of the Consulate General of India in New York to revoke the petitioner's passport. The respondents dispute the contention that a show cause notice calling upon the petitioner to show cause why his passport not be revoked was not issued. The respondents have filed certain documents including the show cause notice dated 21.09.2015 in support of their contention.

8. It is clear from the affidavit filed that the show cause notice was issued to the petitioner at the address in USA and the same was not delivered. The envelopes in which the show-cause notice was returned by the US postal authorities had the remark "UTF" written on them; which, this Court is informed, stands for 'Unable to Forward'.

9. Concededly, no attempt was made by the respondents to issue show cause notice at the permanent address of the petitioner as reflected in the passport and as also available on the records of the respondents.

10. The petitioner has also drawn the attention of this Court to the copy of his passport which indicates that the petitioner had entered New York on

04.10.2015. The show cause notice issued by the respondents at the address in USA was issued on 21.09.2015. Thus, the grievance of the petitioner that the show cause notice could not have been served to the petitioner in USA, is merited.

11. At this stage, this Court is not inclined to examine the allegations against the petitioner regarding him avoiding service as the same ought to have been examined by the concerned passport authority in the first instance. Since, it is apparent that the order revoking the petitioner's passport was passed without sufficient notice to the petitioner and without affording the petitioner an opportunity to meet the allegations, the said order cannot be sustained.

12. In the circumstances, the impugned order dated 17.05.2016 revoking the petitioner's passport is set aside. The concerned passport authority is at liberty to initiate fresh proceedings by issuing a show cause notice to the petitioner at his permanent address. The concerned authority shall take an informed decision after affording the petitioner, sufficient opportunity to be heard, in accordance with law.

13. It is also noticed that the petitioner has been restrained from travelling overseas in terms of the order passed by the Karnataka High Court and the learned counsel for the petitioner undertakes on behalf of the petitioner that he shall abide by the said order and make no attempt to travel outside this country without securing appropriate orders from the Karnataka High Court and or the concerned court in Karnataka. The petitioner is directed to file such undertaking by way of an affidavit in this Court within a period of one

week from today with a copy to the learned counsel for the intervener.

14. The petition and all the pending applications are disposed of.

15. Order *dasti*.

VIBHU BAKHRU, J

JULY 26, 2017
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