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

+ **W.P.(C) 3652/2017**

RAMESH GANERIWAL

..... Petitioner

Through: Mr Sunil Fernandes, Advocate with
Mr Arnav Vidyarthi, Ms Anju
Thomas, Ms Nupur Kumar,
Advocates

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr Vivek Goyal, CGSC for UOI.
Dr Ashwani & Mr Bhardwaj,
Advocate for Intervener

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
18.08.2017

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VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, impugning orders dated 13.01.2017 and 07.04.2017 passed by respondent no.1 revoking Overseas Citizenship granted to the petitioner and calling upon the petitioner to surrender his OCI Card.

2. The petitioner was born in Gwalior in the year 1946 and after completing his primary education in India, he proceeded to the United States of America (USA) for further studies. The petitioner was admitted to the Stanford University in California for undergoing a course in Engineering.

3. After completion of his studies, the petitioner took up employment in USA wherein the petitioner was employed with the California Energy Commission (hereinafter 'the CEC') during the years 1982 to 2004. He became a citizen of the USA in the year 1997 while in employment with the CEC. After his retirement from service, he returned to India, however, he continued to retain his US citizenship.

4. The petitioner was registered as an Overseas Citizen of India under the provisions of Section 7A(1) of the Citizenship Act, 1955 (hereafter 'the Act') and was issued an OCI Card (Card no.A007768) along with multiple entry lifelong visa ('U' Visa Sticker no.U-007768).

5. The petitioner was issued a Show Cause Notice dated 11.11.2014 by respondent no.1 calling upon the petitioner to show cause as to why his OCI Card not be cancelled under Section 7D of the Act. A perusal of the Show Cause Notice indicates that the only allegation levelled against the petitioner was that he was "*involved in anti-social / illegal activities*". No particulars of any such activities were indicated in the Show Cause Notice. Notwithstanding the same, the petitioner responded to the Show Cause Notice by a letter dated 24.11.2014, *inter alia*, stating that he was a law abiding person and had made significant contribution to the local community. The petitioner further stated that in the absence of any specific cause stated in the Show Cause Notice, it was difficult for him to provide any specific explanation.

6. The petitioner did not receive any communication from the respondents in this regard for almost three years and, thereafter, received the

impugned order dated 13.01.2017, cancelling the petitioner's OCI Card. A perusal of the said impugned order indicates that the petitioner's OCI Card was cancelled, *inter alia*, on the grounds that (i) the petitioner had not answered the specific points raised in the Show Cause Notice dated 11.11.2014 and (ii) that it had come to notice that the petitioner was in possession of agricultural/forest land.

7. The petitioner applied for reviewing the said impugned order under Section 15A of the Act.

8. The petitioner also preferred a petition impugning the said order dated 13.01.2017 (being W.P.(C) no.2144/2017). The said petition was disposed of by this Court by an order dated 16.03.2017, permitting the petitioner to make additional submissions in the review petition. The respondents were also directed to dispose of the review petition preferred by the petitioner as expeditiously as possible and preferably within a period of four weeks of the petitioner making additional submissions.

9. In terms of the aforesaid order, the petitioner submitted an additional representation dated 22.03.2017.

10. The review petition preferred by the petitioner was, thereafter, disposed of by the impugned order dated 07.04.2017. A plain reading of the said impugned order indicates that the review petition was rejected on the ground that the petitioner was "*involved in illegal activities viz; encroachment of forest land, illegally acquired land of another person in India and using the same for organic and dairy farming, plantation etc.*" The said impugned order also mentioned that the petitioner was involved in

various court cases and police cases which was not acceptable in the interest of the general public.

11. The learned counsel for the respondents submitted that the petitioner had been violating the law with impunity and he had acquired certain immovable properties which were being held *benami*.

12. The learned counsel for the petitioner stoutly contested the aforesaid allegations. He also submitted that notwithstanding that the aforesaid allegations are untrue, the same would not warrant cancellation of the OCI Card in the interest of the general public, even if they were established to be correct.

13. It is apparent from the above that the controversy involves two principal questions. First, whether there is sufficient material to establish the allegations of (i) encroachment of forest land; (ii) holding benami property; and (iii) illegally acquired immovable property. And second, whether such allegations, if established, would warrant cancellation of petitioner's OCI Card in the interest of the general public.

14. It is apparent from the above that although certain allegations had been made against the petitioner, however, he had not been provided any real opportunity to meet the same. The Show Cause Notice issued on 11.11.2014 was completely bereft of any specific details of "*anti-social / illegal activities*", thus, providing no opportunity to the petitioner to provide any explanation with respect to the same. In the impugned order passed on 13.01.2017, it was alleged for the first time, that the petitioner was in possession of agricultural/forest land and had thereby violated the provisions

of the Gazette Notification no. S.O. 542(E) dated 11.04.2005. The said impugned order also does not mention any specific details as no particulars of the agricultural land alleged to have been acquired by the petitioner or forest land alleged to have been encroached by the petitioner or any legal proceedings in that regard were mentioned.

15. The impugned order dated 07.04.2017 rejecting the review petition mentions certain further allegations against the petitioner, namely, illegally acquiring land and using the same for organic and dairy farming, plantation, etc. and being involved in court cases and police cases. These allegations were also not put to the petitioner earlier.

16. In the given facts, this Court is of the view that principles of natural justice had not been followed. It is trite law that a Show Cause Notice must specifically indicate the case that a noticee has to meet. In the present case, it is apparent that in absence of any specific details, the petitioner has been deprived of an opportunity to submit an explanation.

17. The learned counsel for the respondents had also contended that the petitioner has no rights and, therefore, cannot invoke the jurisdiction of this Court under Article 226 of the Constitution of India. This Court is not persuaded to accept the said contention; while, the petitioner being a foreign citizen may not have certain rights but nonetheless, he is entitled to the protection of Article 14 of the Constitution of India. It is well settled that Article 14 of the Constitution strikes at arbitrariness in state action; thus notwithstanding that the petitioner is not a citizen of India, the respondents being State are enjoined to act fairly and to follow the principles of natural

justice.

18. In view of the above, the impugned orders dated 13.01.2017 and 07.04.2017 are set aside and the respondents are at liberty to issue a fresh Show Cause Notice, briefly indicating the specific allegations against the petitioner, thus enabling him to present his explanations, if any. The concerned authority may thereafter, pass such order as it thinks fit after considering the explanation, if any, furnished by the petitioner. Needless to mention that all contentions of the petitioner are reserved.

19. It is clarified that this Court has not expressed any opinion as to the merits of the allegations made against the petitioner and / or whether such allegations are sufficient to revoke the petitioner's OCI Card in the interest of the general public.

20. The petition along with the pending applications is disposed of.

AUGUST 18, 2017
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VIBHU BAKHRU, J