

\$~27

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

+ **W.P.(C) 5243/2017 & CM 22268/2017**

SURENDER SINGH

..... Petitioner

Through Mr Pardeep Dahiya, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through Mr Daman Bhardwaj, CGSC with
Mr T.P. Singh and Mr Sahaj Garg, Advocates for
R1 and R2/UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

05.09.2017

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 16.05.2017 ('the impugned order'), passed by the respondent no.2 (Chief Passport Officer), impounding the petitioner's passport in terms of Section 10A of the Passports Act, 1967 (hereafter 'the Act').
2. The petitioner's passport was initially suspended by an order passed on 27.01.2017. The said order is set out below:-

ORDER

“WHEREAS, the Central Government on the basis of information available with it has the sufficient reasons to believe that provisions of clause (c) of sub-section (3) of Section 10 of the Passports Act, 1967 may be invoked against **Shri Surender Singh S/o Ram Bhagat**.

Now THEREFORE, the Central Government, has decided

to suspend the Passport No. K- 6770875 of Shri Surender Singh S/o Ram Bhagat under the provisions of Section 10-A of the Passports Act, 1967, for a period of four weeks from the date of issue of this order.”

(Arun Kumar Chatterjee)
Joint Secretary (PSP) &
Chief Passport Officer
Ph. -011-23387013
Fax- 011-23071370
E-mail- jscpo@mea.gov.in

3. Subsequently, by the impugned order dated 16.05.2017, suspension of the petitioner's passport has been extended till the proceedings relating to revocation of the passport under section 10(3) (c) of the Passport Act, 1967 are concluded. The impugned order is set out below:-

ORDER

“WHEREAS, the Central Government on the basis of information available with it had sufficient reasons to believe that provisions of clause (c) of sub-section (3) of Section 10 of the Passports Act, 1967 may be invoked against **Mr. Surender Singh S/o Ram Bhagat, suspended his passport No. K-6770875 under the provisions of Section 10-A of the said Act, for a period of four weeks from the date of issue of an order in this regard.**

NOW, the Central Government in terms of the statutory provisions of Section 10-A of the said Act, **has decided to extend the period of suspension of passport No. K-6770875 of Mr.Surender Singh, till the proceedings relating to impounding/ revocation of his passport under sub-section (c) of section 10 of the said Act are concluded by the Embassy of India, Rome”**

(Arun Kumar Chatterjee)
Joint Secretary (PSP) &
Chief Passport Officer
Ph.011-23387013

4. Mr Dahiya, learned counsel appearing for the petitioner has assailed the impugned order on two fronts. First, he submits that the impugned order was not passed within the initial term of the order dated 27.01.2017 (that is, within a period of four weeks of the passing of the initial order) and, therefore, the said order cannot be given the retrospective effect. Second, he submits that no opportunity of being heard was granted to the petitioner in terms of second proviso to Section 10-A(1) of the Act.

5. Mr Bhardwaj, the learned counsel for the respondents submitted that the petitioner had also approached the Punjab and Haryana High court, *inter alia* , seeking return of the passport and permission to travel overseas, but that was declined. He drew the attention of this Court to an order dated 14.06.2017, passed by the High Court of Punjab and Haryana; the operative part of which is set out below:-

“Without making any comment on the aforesaid contentions of both sides, the contention of learned State counsel being that the matter is still under investigation for a possible racket of human trafficking being existent, I see no ground to allow the petitioner to travel abroad at this stage, there being a strong possibility of his not returning, with a criminal case pending against him in India. ”

6. Before proceeding further, it is relevant to refer to section 10A(1) of the Passports Act, 1967 which is set out below:-

“10A. Suspension of passports or travel documents in certain cases-

(1)Without prejudice to the generality of the provisions contained in section 10, if the Central Government or any

designated officer is satisfied that the passport or travel document is likely to be impounded or caused to be impounded or revoked under clause(c) of sub-section(3) of section 10 and it is necessary in the public interest so to do, it or he may,-

(a) By order, suspend, with immediate effect, any passport or travel document;

(b) Pass such other appropriate order which may have the effect of rendering any passport or travel document invalid, for a period not exceeding four weeks:

Provided that the Central Government or the designated officer may, if it or he considers appropriate, extend, by order and for reasons to be recorded in writing, the said period of four weeks till the proceedings relating to variation, impounding or revocation of passport or travel document under section 10 are concluded:

Provided further that every holder of the passports or travel document, in respect of whom an order under clause (a) or clause (b) of this sub-section had been passed, shall be given an opportunity of being heard within a period of not later than eight weeks reckoned from the date of passing of such order and thereupon the Central Government may, if necessary, by order in writing, modify or revoke the order passed under this sub-section.”

7. A plain reading of second proviso to Section 10A(1) of the Act indicates that it is mandatory for the respondents to provide the concerned passport holder an opportunity of being heard, within a period of not later than eight weeks from the order impounding a passport. In the present case, the said hearing has not been provided. The initial order of suspension dated 27.01.2017, and the impugned order also do not indicate any specific reason for impounding the passport. In the aforesaid circumstances, the

respondents are directed to provide a hearing to the petitioner within a period of six weeks from today and take an informed decision whether it is necessary to suspend the petitioner's passport for a further period.

8. Insofar as the request of the petitioner to set aside the impugned order is concerned, the same cannot be acceded to, as a similar prayer for return of the passport as pointed out by the learned counsel for the respondents was rejected by the Punjab and Haryana High Court on 14.06.2017.

9. The petition along with the application is disposed of. No order as to costs.

VIBHU BAKHRU, J

SEPTEMBER 05, 2017

pkv