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

+ **W.P.(C) 7793/2017**

TENZIN GAWA

..... Petitioner

Through: Mr Giriraj Subramaniam and Mr
Sidhant Krishan Singh, Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr Vikram Jetly, CGSC for
respondent/UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **26.10.2017**

CM No.32176/2017

1. Allowed, subject to all just exceptions.

W.P.(C) 7793/2017

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

“a) issue an appropriate writ of mandamus or any other writ, order or direction to the respondents to issue necessary orders/directions for issuance of passport to the petitioner in view of the facts above.”

3. The petitioner had applied for a passport, however, the petitioner's request has not been acceded to as yet. The learned counsel for the respondents states that the petitioner's application for a passport has not been rejected but has been kept on hold principally for the reason that there

is discrepancy in his date and place of birth. The learned counsel refers to the counter affidavit filed on behalf of the respondents which indicates that the petitioner had applied for a passport at Regional Passport Office, Bengaluru by an application dated 29.06.2017 indicating his place of birth as Mundgod, Karnataka and the date of birth is 25.06.1979. It is stated that the petitioner had on an earlier occasion applied for a passport with the Regional Passport Office, Guwahati where his place of birth was mentioned as Shillong, Meghalaya. It is also mentioned in the counter affidavit that the petitioner holds an Identity Certificate dated 30.05.2017 issued by Regional Passport Office, Bengaluru in which his date of birth is mentioned as 25.06.1981 and his place of birth is stated to be Mundgod, Karnataka. Clearly, the petitioner would have to satisfy the respondents authorities as to his date and place of birth.

4. The learned counsel for the petitioner drew the attention of this Court to a Show Cause Notice dated 01.08.2017 calling upon the petitioner to provide suitable explanation as to adverse police verification report indicating that the petitioner is holding a Tibetan Nationality. He submits that no Show Cause Notice had been issued by the respondents with regard to any discrepancy in his date of birth.

5. As far as the issue regarding the petitioner's nationality is concerned, the controversy whether citizens born of parents of Tibetan origin are entitled to the citizenship by birth in terms of Section 3(1)(a) of the Citizenship Act, 1955 has been considered in various decisions rendered by this Court including ***Namgyal Dolkar v. Government of India, Ministry of External Affairs : W.P.(C) 12179/2009, decided on 22.12.2010***; ***Phuntsok Wangyal v. Ministry of External Affairs & Ors. : W.P.(C) 3539/2016*** and

other connected matters *decided on 22.09.2016*; and *Karma Gyaltsen Neyratsang v. Union of India & Ors. : W.P. (C) 6074/2014, decided on 29.08.2017*.

6. In view of the above, the passport authorities are required to take into account the said decisions while considering the petitioner's application for a passport.

7. The petitioner shall file a statement clarifying the discrepancy in his date and place of birth along with necessary documents and appear before the Regional Passport Officer, Bengaluru on 10.11.2017 at 11:00 AM. The petitioner's application for passport shall be considered in the light of the clarification provided by the petitioner and the concerned Regional Passport Officer shall pass an appropriate order either granting the passport to the petitioner or specifying the reasons for denying the same. Needless to mention if the petitioner is aggrieved by the order passed by the RPO, he is at liberty to apply afresh.

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

9. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

OCTOBER 26, 2017
MK