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

+ W.P.(C) 7789/2017
KELSANG GYATSO

..... Petitioner

Through: Mr Simarpal Singh Sawhney and Mr
Sidhant Krishan Singh, Advocates.

versus

UNION OF INDIA AND ORS Respondents
Through: Mr Vikram Jetly, CGSC for UOI.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

% **ORDER**
19.09.2017

CM No.32145/2017

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 7789/2017

3. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondents for issuance of a passport. The petitioner states that he was born on 15.09.1965 and is, thus, a citizen of India by birth.

4. On 29.07.1999, a passport bearing no. A-7992380 was issued to the petitioner. The said passport expired on 28.07.2009. In the meanwhile, pursuant to an application filed by the petitioner, the Regional Passport Office, Delhi also issued a Identity Certificate bearing no.045233. The said certificate was issued on 12.06.2002 and was valid till 11.06.2012.

5. On 24.05.2017, the petitioner applied for re-issuance of his passport, however, the petitioner's application has been kept at hold.

6. Aggrieved by non issuance of the passport, the petitioner has preferred the present writ petition. During the pendency of the present petition, the Regional Passport Officer, Dehradun has issued a Show Cause Notice dated 08.09.2017, *inter alia*, calling upon the petitioner to explain the following:

"(a) Why have you suppressed information about holding Identity Certificate issued from Regional Passport Office, Delhi while applying for passport.

(b) Why and how you have obtained Indian Passport No. A7992380 from Regional Passport Office, Guwahati showing your Nationality as India, while being a Tibetan National, you acquired an Identity certificate from Regional Passport Office, Delhi.

(c) Why have you applied for Identity Certificate with change of date of birth and place of birth at Regional Passport Office, Delhi.

(d) Why action should not be initiated against you under Passport Act, 1967 for suppression of you Nationality status."

7. The question whether passport facilities can be denied to the petitioner on the ground that he holds an Identity Certificate is squarely covered by the decision of this Court in ***Namgyal Dolkar v. Government of India Ministry of External Affairs: W.P.(c) 12179/2009 decided on 22.12.2010***. The petitioner claims to be the Indian National by birth in terms of section 3(1)(a) of the Citizenship Act, 1955; and, if it is correct that the

petitioner was born in India prior to 1987, the petitioner's claim would be fully justified. The fact that the petitioner had applied for an Identity Certificate from the Regional Passport Office would not in any manner come in the petitioner's way in claiming that he is an Indian Citizen. However, as explained in the case of **Namgyal Dolkar** (*supra*) the petitioner would be required to surrender the Identity Certificate and is not entitled to hold both an Indian passport as well as the Identity Certificate. At this stage, the learned counsel for the petitioner states that the petitioner would surrender the Identity Certificate immediately on issue of the passport and, in any case the validity of the Identity Certificate has expired. The petitioner is bound down to the aforesaid statement.

8. The only controversy that remains to be addressed is whether the petitioner had made an incorrect declaration in his application and whether his date of birth has been correctly stated in the application. The petitioner is at liberty to provide all necessary documents in this regard to the concerned Regional Passport Office, within a period of three weeks from today. The concerned Regional Passport Officer will examine the aforesaid aspect and shall process the petitioner's application within a period of three weeks, thereafter.

9. In view of the above, the Show Cause Notice dated 08.09.2017 is also quashed as the principal ground in the said Show Cause Notice is with respect to the petitioner suppressing his nationality. However it is clarified that this would not preclude the concerned passport authority to issue a fresh notice in the event he is, *prima facie*, of the view that any other false declaration has been made.

10. The petition is disposed of with the aforesaid observations.
11. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

SEPTEMBER 19, 2017
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