

Girgaon, Mumbai in C.C. No.430/PW/2007.

2. Heard Mr. Kiran R. Mehta, the Applicant in-person. Mr. Arshad Shaikh, the learned counsel for the Petitioner, and Mr. V.V. Gangurde, the learned APP for the Respondent -State.

3. The Petitioner was issued a passport by the Government of India. The Applicant lodged a complaint with the Passport Authority alleging that the Petitioner had suppressed certain information while seeking renewal of the passport. A show cause notice was issued and subsequently the passport came to be impounded /revoked with liberty to apply for fresh passport. Dismissal of the appeal led to filing of the Writ Petition No.723 of 2014. The Division Bench of this Court set aside the order of the Appellate Authority with direction to the Appellate Authority to decide the appeal afresh. The Appellate Authority by its order dated 5th February, 2016 once again upheld the order passed by the Regional Passport Authority, but gave liberty to the Petitioner to apply for NOC from the concerned courts where criminal cases are pending. Accordingly, the Petitioner applied for NOC before the learned Metropolitan Magistrate Court, Girgaon and dismissal of the application has resulted in filing the present Petition.

4. The contention of the Applicant is that being the aggrieved party, he should be permitted to intervene in the matter and assist the Court.

5. It may be mentioned that in the Writ Petition No. 723 of 2014 the Applicant had contended that he ought to have been impleaded as a party respondent and equally the Appellate Authority should have decided the appeal after hearing him. In this context, it would be advantageous to reproduce the relevant paragraphs of the judgment of the Division Bench, which read thus:-

“9.At the outset, though we have given sufficient time to Mr.Kiran Mehta and to bring to our notice the relevant information, we do not think that section 10 and particularly section 11 of the Passports Act, 1967 can be construed so as to confer a right and in all cases of the present nature on the Applicant to remain present before the Appellate authority and make submissions. The Passport authority has been conferred with powers of issuing a passport or travel document and thereafter to prescribe their duration. It is conferred with the powers to refuse a Passport. In all such matters, the aggrieved parties are identifiable and can be legally recognized. The “holder of the Passport” are the words employed and some meaning will have to be given to them. Eventually, it is the Petitioner to whom the Passport has been issued. Eventually, the Petitioner who is the holder of the Passport. It is the Petitioner who has surrendered the Passport and it is the Petitioner to whom notice to show cause came to

be issued. It is the Petitioner who is visited with the order passed by the Passport authority and it is the petitioner who has moved the Appellate authority against an adverse order. It may be that this Applicant has provided vital information and details to the Passport authority and a show cause notice has been issued at his instance or on his complaint but, beyond that we do not think that the Applicant should be given any opportunity and at a hearing which will be held by the Appellate authority once again or afresh. Xxx

14. All contentions of the Petitioner in relation to the Appeal are kept open. We clarify that the Appellate authority is free to take into consideration and while deciding the petitioner's Appeal all materials that were before the Passport authority including the complaint in writing made by the Applicant Mr.Kiran Mehta in the Chamber Summons. All documents which were provided by Mr.Kiran Mehta may be taken into consideration by the Appellate authority while deciding the Appeal before it. The authority must allow an opportunity to the Petitioner and if sought to inspect the entire record and obtain copies of such documents as are placed by Mr.Mehta and then to meet the contents thereof.

15. Our order and direction will not oblige the Appellate authority in any manner to grant a personal hearing to the Applicant Mr.Kiran Mehta nor we are inclined to do so in the facts and circumstances of the present case. Beyond that we do not decide the issue of right or locus of a party like Mr.Kiran Mehta to participate in the proceedings under the Passports Act, 1967 and of the present nature.”

6. It is also to be noted that the Applicant had also filed an intervention application before the learned Metropolitan Magistrate. The said application was dismissed by the learned Metropolitan Magistrate while holding that the Applicant is not an aggrieved person. In the light of these two orders, the Applicant does not enjoy an

indefeasible right to be heard in the matter. Be that as it may, as held by the Division Bench of this Court, the issue of renewal of passport is exclusively within the domain of the Passport Authority. Similarly, the charge sheet having been filed and the learned Metropolitan Magistrate is being seized of the matter, the issue of grant of refusal of NOC is within the jurisdiction of the concerned Magistrate. In the instant case, the learned Metropolitan Magistrate has rejected the application on the ground that the Court has no jurisdiction to grant NOC for issuance/renewal of passport. The said order is impugned in this Petition. In my considered view, the presence of the Applicant is not necessary to decide the legality of the order which is impugned in this Petition.

7. Under the circumstances, and in view of discussion supra, the application for intervention is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)