

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.5586 of 2018

ORDER:

Heard the learned counsel for the petitioner and the learned counsel appearing for Respondents Ms.Thakur Roopa Singh.

2. In the present writ petition, challenge is to the order passed by the Regional Passport Officer, Hyderabad vide proceedings Rc.No. Hyd/30/Pol/LC/PCC/238/2017 dated 7.2.2018. Earlier, the Regional Passport Officer issued a show cause notice vide proceedings dated 28.11.2017, asking the petitioner herein to show cause as to why action should not be initiated to impound the passport of the petitioner under Section 10(3)(e) of the Passports Act, 1967. In response to the said show cause notice, on 6.12.2017, petitioner submitted explanation. Thereafter, the Regional Passport Officer issued proceedings dated 14.12.2017, directing the petitioner to surrender the passport. Assailing the validity and legal sustainability of the said order, petitioner herein filed W.P.No.45001 of 2017 before this Court and this Court disposed of the said writ petition by way of order dated 3.1.2018, keeping it open to the Regional Passport Officer to issue notice to the petitioner and to afford opportunity to him. Subsequently, vide orders under challenge dated 7.2.2018, 1st respondent herein directed surrender of the passport of the petitioner. Hence the present writ petition.

3. According to the learned counsel for the petitioner, the order impugned is highly illegal, arbitrary, unreasonable and is violative of Article 14 of the Constitution of India and the impugned order is not in accordance with law and the orders of this Court in W.P.No.4500 of 2017 dated 3.1.2018. It is further contended by the learned counsel that the impugned action is violative of principles of natural justice as the 1st respondent herein failed to

issue show cause notice to the petitioner before resorting to the impugned action nor afforded any opportunity to the petitioner.

4. On the other hand, it is submitted by the learned Standing Counsel that there is no illegality nor there exists any material irregularity in the impugned order and in the absence of the same, the impugned order is not amenable for any judicial review under Article 226 of the Constitution of India.

5. It is not in controversy that earlier against the order dated 14.12.2017, petitioner approached this Court by way of filing W.P.No.4500 of 2017. This Court disposed of the said writ petition by order dated 3.1.2018, by setting aside the order dated 14.12.2017 and by giving liberty to the Regional Passport Officer to issue notice and to provide opportunity to the petitioner and to proceed further. In the instant case, a perusal of the order under challenge vividly reveals that the 1st respondent herein, in terms of the orders of this court, did not issue any show cause notice nor afforded opportunity to the petitioner. On the other hand, the impugned order refers obviously to earlier show cause notice dated 28.11.2017 and the reply given by the petitioner on 6.12.2017. This action, in the considered opinion of this Court, is highly illegal, arbitrary and cannot be sustained in the eye of law and is in violation of principles of natural justice and in contravention of the orders of this Court in W.P.No.4500 of 2017. Therefore, in the considered opinion of this Court, the impugned order requires reconsideration by the 1st respondent for complying the directions in W.P.No.4500 of 2017.

6. Accordingly, the writ petition is allowed, setting aside the order passed by the 1st respondent vide proceedings Rc.No. Hyd/30/Pol/LC/PCC/238/2017 dated 7.2.2018 and it is kept open to the 1st respondent to issue show cause notice to the petitioner, so as to enable the petitioner to file explanation to the same and thereafter, after considering such explanation, it is open for the

1st respondent to pass appropriate orders strictly in accordance with law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 9.3.2018
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