

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.41491 OF 2017

ORDER:

Heard Mr.M.Laxman Rao for petitioners, the Assistant Government Pleader for respondents 1 and 2, Mr.P.Devender for respondents 3 to 6 and Ms.Rubina S. Khatoon for respondent No.7.

This Court ordered notice on 07.12.2017 to all the respondents. The 8<sup>th</sup> respondent is not represented by counsel. Mr.Devender sought time to get instructions on the circumstances under which the passport impound slip by the Bureau of Immigration dated 01.11.2017 for Passport No.H 2447800 was issued by the Immigration Officer. On instructions, he submits that basing on the non-bailable warrant issued against the 1<sup>st</sup> petitioner and the subsequent look out circular, the passport impound slip dated 01.11.2017 was issued impounding the passport of 1<sup>st</sup> petitioner. In this background, the case of petitioner is that the NBWs issued and also the communications sent for not appearing before the Court have been recalled by this Court by order dated 25.11.2016 in W.P.No.40930 of 2016. The operative portion of the order reads thus:

“Learned counsel for the petitioners submits that the petitioners apprehend arrest in view of the NBWs issued by the learned XIII Additional Metropolitan Magistrate, Hyderabad. The petitioners earlier approached this Court and this Court stayed all further proceedings. While pendency of the same, the learned XIII Additional Metropolitan Magistrate, Hyderabad, issued NBWs against the petitioner and when the petitioners approached for recall of the NBWs, the same is rejected by the learned Judge on the ground that the stay is granted by this Court. Hence, the petitioners

approaches this Court by filing the present writ petition under Article 226 of the Constitution of India.

Considering the facts and circumstances of the case, the NBWs issued by the learned XIII Additional Metropolitan Magistrate, Hyderabad, is hereby recalled. The second respondent is directed to recall the letters issued to the various Authorities on the basis of the NBWs issued against the petitioners herein”.

From the above, the case of 1<sup>st</sup> respondent is that on 25.11.2016, this Court recalled the NBWs and further directed the 2<sup>nd</sup> respondent therein to recall the letters issued to various authorities on the basis of NBWs issued against the petitioners herein. In normal circumstances, the expectation of petitioners is that the communication would have gone to all the concerned and look out circular is withdrawn.

In the case on hand, the Assistant Government Pleader places on record Letter OW.No.01/BCN/CCS-DD/HYD/2017 dated 02.01.2017 addressed by the Deputy Commissioner of Police to the Assistant Director, C.B.I.N.C.B (India), Interpol Wing ((B), CGO Complex, Ground Floor, New Delhi -66. The Deputy Commissioner of Police has called upon the Interpol Wing to cancel or withdraw the blue corner notice on the accused, including the 1<sup>st</sup> petitioner herein. Mr.Devender, however, is unable to assist this Court whether it was received by the Interpol Wing or not. Be that as it may, this Court in W.P.No.40930 of 2016 firstly recalled the NBWs and secondly directed recalling the communication issued for blue corner notice. This resulted in communication dated 02.01.2017. That being the case, impounding of passport by the Immigration Officer, BOI, RGIA, Hyderabad is illegal, arbitrary and unconstitutional.

Hence, the passport impound slip is set aside. The petitioner is given liberty to appear before the 5<sup>th</sup> respondent along with a copy of this order for return of Passport No.2447800 within one week from today. The 5<sup>th</sup> respondent, on such appearance, delivers the passport under acknowledgement to petitioner. Mr.Devender is directed to inform the order passed by this Court forthwith to 5<sup>th</sup> respondent.

The writ petition is, accordingly, disposed of. There shall no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

05<sup>th</sup> January, 2018

Note: c.c. in two days.  
B/o.  
Lrkm

S.V.BHATT, J

