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

+ W.P.(C) 7428/2018

KAMLESH DEVI AND ANR.

..... Petitioners

Through: Mr Kshitij Mudgal, Ms Bandana Singh and Mr Virat Singh Panwar, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Anil Soni, CGSC with Ms Priyanka Singh and Mr Abhinav Tyagi, Advocates for R-1/UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.07.2018

CM No. 28417/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioners have filed the present petition, *inter alia*, praying as under:-

- “(a) Pass a writ of mandamus and / or a writ in the nature of mandamus and / or any other appropriate Writ and / or Order and / or Direction thereby directing Respondents to take action against the erring officer; AND/OR
- (b) Pass a writ of mandamus and / or a writ in the nature of mandamus and / or any other appropriate Writ and / or Order and / or Direction thereby directing the Respondents to compensate the Petitioners for the loss, harassment, agony suffered by the Petitioners and damage caused to the Petitioner for reasons best known to the

Respondents; AND/OR

- (c) Pass a writ of Mandamus And / Or A writ in the nature of Mandamus and / or any other appropriate writ and / or order and / or direction thereby directing the Respondents to frame a policy specifying the documents required to travel abroad if the intended period of stay is more than ninety days; AND/OR”

4. Petitioner no.1 is an Indian Citizen and was scheduled to travel on 17.01.2018, to Stockholm, Sweden to visit her son – petitioner no.2. Admittedly, she had a resident visa which permitted her to enter and reside in Sweden for a period of six months. She booked her tickets to travel by Air India Flight No. AI-167 on 17.01.2018 and had reported at the check-in counter well within time. She was also issued a boarding pass by Air India to travel by Flight No. AI-167. The Immigration Officer also cleared her for boarding but then cancelled his endorsement.

5. Petitioner no.1 thereafter travelled on the same documents two days later. In the interim period, her son had to travel back from Stockholm to ascertain the reasons as to why petitioner no.1 was not permitted to travel Stockholm. Admittedly, there was no valid reason for the action taken by the Immigration Officer and as stated earlier petitioner no.1 did travel Stockholm two days later on the same documents.

6. Mr Soni, the learned counsel appearing for the respondents states that the Immigration Officer had some doubts and, therefore, had sought clarification from the Airlines who had then de-boarded the petitioner. The said contention is *ex facie* unmerited and must be rejected. The primary duty for clearing passengers for travelling overseas rests with the concerned

officer at IGI Airport. The responsibility for the distress suffered by petitioner no.1 rests with the concerned Immigration Officers, who were on duty at the relevant time. There is no allegation of any *malafide*. It is, thus, apparent that the concerned officer lacked the necessary skill and competence to examine the documents.

7. In view of the above, this Court directs respondent no.1 to conduct an enquiry to ascertain the persons responsible for causing distress to petitioner no.1. Respondents shall also ensure that the said officers are properly trained for the job they are charged to perform in order to ensure that passengers are not put to any unnecessary distress.

8. Insofar as the petitioners' prayer for compensation is concerned, this Court is not inclined to entertain the same in this petition. The same would inevitably involve disputed questions of fact. The petitioners would be at liberty to institute an appropriate proceeding in this regard, if so advised. Needless to state that if the same is instituted, the same would be considered on its own merit and in accordance with law.

9. The petition is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

JULY 20, 2018
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