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

+ W.P.(C) 7475/2018 & CM No. 28592/2018

DHRUVALBHAI BHARATBHAI PATEL Petitioner

Through: Mr Rajiv Gupta, Advocate.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr Vikas Mahajan, CGSC with Mr
Vinod Tiwari, GP for R-1 & R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **20.07.2018**

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 28.05.2018 passed by the Chief Passport Officer (respondent no.2), whereby the petitioner's appeal against the order of the Regional Passport Officer (RPO, Ahmedabad) denying passport facilities to the petitioner has been rejected.
2. The impugned order does not address the petitioner's grievance on merits but rejects the petitioner's appeal on the ground that an appeal under Section 11 of the Passport Act, 1967 is not maintainable, as the decision to reject the passport facilities was taken by the Central Government.
3. A bare perusal of the order dated 26.10.2017, passed by the Regional Passport Office, Ahmedabad whereby the passport facilities have been denied to the petitioner, does not indicate that the said order has been passed by the Central Government. However, be that as it may, the only reason

provided for denial of passport facilities is a reference to Section 5(2)(c) and Section 6(2) of the Passport Act, 1967. The said provisions are reproduced below:-

“5. Applications for passports, travel documents, etc., and orders thereon.-

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1. On receipt of an application [under this section], the passport authority, after making such inquiry, if any, as it may consider necessary, shall subject to the other provisions of this Act, by order in writing –

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(c) refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement.”

6: Refusal of passports, travel documents etc.

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(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: -

(a) that the applicant is not a citizen of India.,

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India.,

(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

(e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.”

4. As is apparent from the above, Section 6(2) of the Passport Act 1967 refers to various grounds. However, the order dated 26.10.2017 does not contain any specific reason but merely refers to Section 6(2) of the said Act. Insofar as the reference to Section 5(2)(c) is concerned, the same only mentions that on an application being made, the concerned authority may refuse to issue passport or travel documents as the case may be. That provision gives no indication of any reason for doing so.

5. In view of the above, the said order dated 26.10.2017 is vague and unreasoned, and is liable to be set aside on that ground alone.

6. It appears from the averments made in the present petition that the passport faculties have been denied to the petitioner on the ground that he had travelled to United Kingdom and had applied to political asylum in that said country. The petitioner was sent back to India in December, 2016 on an Emergency Certificate.

7. This Court has in a number of decisions, held that a prior application for asylum overseas cannot be the sole ground for denying the passport facilities to the citizen of India. The Division Bench of this Court, in ***LPA 13/2016 captioned 'Union of India & Anr. v. Satnam Singh'*** and other connected matters decided on 12.01.2018, has observed as under:-

“23. This Court is of the opinion, therefore, that sovereignty and integrity of the country are robust concepts that can withstand the actions of isolated individuals who may seek political asylum; their mere action in so seeking asylum- without more, by way of action tending to undermine the sovereignty, through actions that can result in disorder or violence- cannot be a ground for refusing passport to them.”

8. In view of the above, the present petition is allowed and the impugned order dated 28.05.2018 passed by respondent no.2 and the order dated 26.10.2017 passed by the Regional Passport Office (Central Government) are set aside. The respondents are directed to reconsider the petitioner's application afresh having due regard to the decision of the Division Bench of this Court in ***LPA 13/2016 captioned 'Union of India & Anr. v. Satnam Singh'*** and other connected matters and pass an appropriate orders within a

period of four weeks from today.

9. The petition is disposed of in the aforesaid terms. The pending application also stands disposed of.

VIBHU BAKHRU, J

JULY 20, 2018/MK