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

+ **W.P.(CRL) 3036/2018, CRL.M.A. 33572/2018**

HARSH VARDHAN LODHA

..... Petitioner

Through: Mr. Siddharth Aggarwal and Mr.
Rohit Bharadwaj, Advocates.

Versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Ripu Daman Bhardwaj, SPP for
CBI.

Mr. Rahul Mehra, Standing Counsel
(Crl.), GNCTD alongwith Mr. Jamal
Akhtar, Advocate.

Mr. Gaurang Kanth, CGSC for R-2.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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11.12.2018

On 05.10.2018, the Court had passed the following order:-

“The petitioner is aggrieved by the order dated 22.09.2018 declining his request for issuance of direction to respondent no. 2 to the effect that a passport having validity of ten years be issued to him. The petitioner’s passport bearing no. H-6980786, valid from 06.10.2009 to 05.10.2019 was issued prior to the registration of case FIR No. RC 3(A) 2009 dated 23.11.2009, which is pending adjudication before Patiala House Courts, New Delhi. The issuance of the said passport is not in issue. The petitioner claims to be a businessman, a Trustee a member of the managing committee of various medical, social and charitable institutions at Indore, Kolkata and Bombay. He also claims to have been an Honorary Consul of the Government of Romania in Kolkata for West Bengal, Orissa and Bihar; the Vice Consul of the Republic of Philippines for Eastern India, the Member of the Accounting Standards Board set up by the Institute of

Chartered Accountants of India and Member of the Executive Committee of Assocham. Additionally, he also served as Co-Chairman of FICCI Young Leaders Forum and Co-Chairman of its Capital Markets and Taxation Sub- Committees.

It is the petitioner's case that he is a frequent overseas traveller. The conditions imposed upon him by the Trial Court in the aforesaid case were scrupulously followed by him; that on several occasions the petitioner was granted permission by the Trial Court to travel abroad for business purposes and he has never breached any of the condition imposed upon him and has never misused the liberty so granted by the Courts. It is submitted that since there was only one page left in his passport, he applied for issuance of an Additional Passport Booklet. However, it was declined on the premise that the petitioner has to apply for a fresh passport. Accordingly, a Form was filled by his travel agent and he signed the same in the faith that it was in order. The learned counsel for the petitioner submits that it was an error and was not a deliberate attempt to mislead the Authorities for issuance of a new passport. Thereafter, a new passport, having a validity of 10 years from 06.03.2018 to 05.03.2028, was issued to him under a new number. On 12.03.2018 i.e. within 6 days of receipt of the said passport, he promptly and willingly informed the Regional Passport Office, Kolkata seeking rectification of the mistake in his application. The petitioner had sought inter alia:-

"I confirm that the new passport has not been used by me and as soon as I came to know about the mistake I took steps to rectify the same without delay. As you would appreciate the error is unintentional and I did not know about the same till I checked my form again. As I would like to follow the correct process of law I am willing to return the passport immediately if required and make a fresh application".

A response was received from the Regional Passport Office on 20.03.2018, in terms of the aforesaid letter and the petitioner was asked to appear before the RPO on 26.03.2018

alongwith all original documents and passport. On 22.03.2018, he promptly deposited the passport before the RPO. The learned counsel for the petitioner submits that the conduct of the petitioner would show that he is a law abiding citizen and the moment he discovered his mistake about incomplete disclosure, he immediately informed the authorities and deposited his passport with the RPO. He further submits that the impugned order has erred insofar as it opines that it does not have the jurisdiction to issue directions to the Government of India for issuance of a passport with validity beyond a period of one year.

He submits that a passport having validity of 10 years can be issued in terms of the Notification of Ministry of External Affairs bearing No. G.S.R570(E) dated 25.08.1993.

Renotify on 27.11.2018.”

The learned counsel for the petitioner relies upon the judgment of Division Bench of this Court in ***Prashant Bhushan vs. UOI & Anr.*** in W.P. (C) 1524/2015 decided on 07.01.2016, which has observed that the decision of the Trial Court would be subject to judicial review.

Mr. Gaurang Kanth, the learned Standing Counsel for Union of India, appearing for Ministry of External Affairs submits that in the absence of a clear direction from a court of law, a passport cannot be issued by the RPO for more than a year. He refers to the judgment of this Court in ***Deepak Jain vs. UOI & Ors*** decided on 08.10.2018 in W.P.(C) 10680/2018 and in ***Moh. Salim @ Rehmatullah vs. UOI & Anr.*** decided on 23.12.2015 in W.P. (C) No. 12225/2015, which in turn referred to the Notification dated 25.08.1993 issued by Ministry of External Affairs and held that it would be within the jurisdiction of the Trial Court to direct issuance of a passport for a full term, as provided in Passport Rules, 1980.

It would therefore be for the learned Trial Court to consider and specify

the period of validity of the passport, especially, in view of the fact that he travels outside India frequently and needs a passport for a longer duration than a year, otherwise foreign mission in India are reluctant to issue visas on a passport having validity for merely a year or for lesser period. Additionally, during the pendency of the proceedings, the petitioner has travelled outside India over 15 times and has not misused the liberty. Furthermore, he is under directions to take prior permission from Court to travel outside India.

In view of the above, the impugned order is set aside. The case is remanded to the Trial Court for a decision on the petitioner's application. The parties shall appear before the Trial Court on 14.12.2018. They say that they will request the learned Trial Court to dispose-off the application within a week.

The petition stands disposed-off in the above terms.

A copy of this order be given *dasti* to the learned counsel for the parties under the signature of the Court Master.

NAJMI WAZIRI, J.

DECEMBER 11, 2018

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