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

+ **W.P.(C) 10680/2018 & CM No. 41686/2018**

DEEPAK JAIN

..... Petitioner

Through: Mr Yogesh, Advocate.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Anurag Ahluwalia, CGSC for
UI/R-1 & R-2 with Mr Abhimanyu
Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.10.2018

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondents for re-issue his passport with a validity period of 10 years from the date of issue instead of one year as provided by the respondents.

2. The petitioner was issued a passport, which expired on 19.07.2017. Prior to the said date, an FIR (FIR no.107/2012) under Section 420/468 IPC, was filed against the petitioner. In view of the pendency of the aforesaid proceedings, the petitioner made an application dated 06.08.2018 to the Trial Court seeking its no objection (NOC) for reissuance of passport. By an order dated 20.08.2010, the Trial Court allowed the petitioner's application, *inter alia*, recording that the Court had no objection if passport of the applicant is re-issued by the passport authority "as per rules." The petitioner, thereafter, applied for reissuance of a passport. Although, a passport was

issued but the validity of the said passport was limited only to one year; that is, from 13.09.2018 to 12.09.2019.

3. The petitioner is aggrieved to the extent that the said passport has not been renewed for a period of 10 years as provided under the Passport Rules, 1980.

4. Mr Ahluwalia, learned counsel appearing for the respondent submitted that in terms of Section 6(2)(f) of the Passport Act, 1967, a passport can be denied to an applicant on the ground of pendency of criminal proceedings. He submitted that the rigors of the said provision were relaxed by a notification dated 25.08.1993, which provided for issuance of a passport with a validity period of one year if no specific period was specified by the concerned court.

5. The learned counsel appearing for the petitioner relied on the decision of the Division Bench of the Bombay High Court in ***Narendra K. Ambwani v. Union of India & Ors.:Civil Writ Petition No.361/2014, decided on 13.03.2014***. In the said order, the Court had clarified that the use of the words “as per Rules” by the Trial Court would imply that the passport be issued for the full term as provided under Rule 12 of the Passport Rules, 1980. He submitted that the expression “as per Rules”, as used in the order dated 20.08.2018 passed by the Trial Court in this case (FIR no.107/2012) must be read in a similar manner.

Reasons and Conclusion

6. A Division Bench of this Court had considered the similar

controversy in the case of *Prashant Bhushan v. Union of India & Anr.*: **2016 (154) DRJ 385 (DB)**. In that case also, the Metropolitan Magistrate had given a NOC for renewal of the passport “as per Rules”. The Division Bench examined the same and concluded that since no period was mentioned in the said order, the passport was required to be renewed for a period of one year in terms of the notification dated 25.08.1993.

7. The Court declined to accept the interpretation that even in absence of the specific period being mentioned in the order of the Trial Court indicating its no objection, the same must be construed to be a full term as provided in the Passport Rules, 1980. The Court expressly held “*though it is open to the applicant to seek further extension, there is no logic in contending that in the absence of fixation of any time limit by the court it has to be presumed that the court has allowed issuance of the passport for full validity period.*”

8. In view of the above, the contention of the petitioner that in each case, where the Trial Court issues a No Objection Certificate stating that the passport be issued as per Rules must be construed that the passport be issued for the full term, cannot be accepted.

9. At this stage, it is relevant to refer to the notification dated 25.08.1993, which is set out below:

**“GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS**

NOTIFICATION

New Delhi, the 25th August, 1993

G.S.R. 570(E). – In exercise of the powers conferred by clause (a) of section 22 of the Passports Act, 1967 (15 of

1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs no. G.S.R.298(E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

(a) the passport to be issued to every such citizen shall be issued—

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year,

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of a(ii) and a(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not

cancelled or modified;

(c) any passport issued in terms of a(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.

[No.VI/401/37/79]

L.K. PONAPPA,
Jt. Secy. (CPV)”

10. It is apparent from the language of the notification dated 25.08.1993 – which is not under challenge in these proceedings – that if no period for issue of the passport or approval is specified, the passport would be issued for a period of one year. Admittedly, the Passport Rules, 1980 provide that the period of validity of a passport shall be ten years. The reference to Rules by the Trial Court should in normal circumstances also mean the same as held by the Bombay High Court in *Narendra K. Ambwani v. Union of India & Ors.: Civil Writ Petition No.361/2014, decided on 13.03.2014*. However, the decision in *Prashant Bhushan v. Union of India & Anr.: 2016 (154) DRJ 385 (DB)* is clear in this regard. Thus, it would be necessary for the applicant to seek orders for expressly indicating the period for which a passport can be issued. In view of the above, the present petition is disposed of by granting liberty to the petitioner to approach the concerned Court for necessary clarification. In the event, the Trial Court

indicates that it has no objection for issuance of the passport for the full term as provided under the Passport Rules, 1980, the petitioner would be at liberty to make a fresh application for renewal of the passport and it would be processed, accordingly.

11. The pending application is also disposed of.

12. Order *dasti*.

OCTOBER 08, 2018
MK

VIBHU BAKHRU, J



न्यायमेव जयते