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

+ **W.P.(C) 8614/2015 & CM 18706/215, 18587-18588/2017**

KHALEEQH AHMED & ORS.

..... Petitioners

Through Mr Salar M. Khan, Ms Amal Merin
Kurian, Advocates.

versus

UNION OF INDIA

..... Respondent

Through Mr Virender Pratap Singh Charak,
Ms Shubhra Parashar and Ms Deepa Malik, Ms
Pushpender Singh Charak, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **23.01.2018**

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

“A. Issue a writ of mandamus or any other appropriate writ, order or direction to the respondent to expeditiously consider, decide and permit registration of birth of the petitioner no.2 as citizen of India under section 4(1)(b) of the Citizenship Act, 1995.”

2. Petitioner no.1 is an Indian citizen by birth and holds an Indian passport. He was born in Shimoga, Karnataka, India on 12.12.1961. In the year 1990, petitioner no.1 proceeded to Doha (Qatar) for taking up employment and has been working there since then.

3. Petitioner no.1 married petitioner no.3 (who is a citizen of Pakistan) on 04.06.1999 at Karachi (Pakistan). It is stated that after their marriage, petitioner no.3 also proceeded to Doha and has been residing with petitioner

no.1 since.

4. The petitioner nos. 1 & 3 claim that petitioner no.2 was born on 03.05.2000 in Karachi (Pakistan). Petitioner no.2's birth was registered in Pakistan as a Pakistani National. It is also stated that subsequently, petitioner nos. 1 & 3 had a daughter who was born in Doha (Qatar). Her birth was registered with the Indian Embassy as an Indian citizen. She has also been issued an Indian passport. Petitioner no.2 and his younger sister are admitted in an Indian School in Doha (Qatar).

5. Petitioner no.1 applied for registration of the birth of petitioner no.2 (his minor son) with the Indian consulate at Doha. However, his request was not acceded to principally for two reasons. First, that petitioner no.2's birth had already been registered at Pakistan and he had been issued a Pakistani passport; and second, that the application for registration of petitioner no.2's birth with the Indian Embassy was not made within the period, as specified under the proviso to Section 4(1) of the Citizenship Act, 1955 (hereafter 'the Act').

6. Mr Virender Pratap Singh Charak, the learned counsel appearing for the respondent contended that even though petitioner no.2's birth had not been registered with an Indian consulate in terms of proviso to Section 4(1) of the Act, petitioner no.2 was still an Indian national by virtue of Section 4(1A) of the Act. He states that if petitioner no.2 denounces his Pakistani nationality within a period of six months from attaining the full age (age of 18 years of majority) in the prescribed format and surrenders his Pakistani passport, he would be recognized as an Indian national. Mr Charak also

drew the attention of this Court to the counter affidavit filed on behalf of the respondent; the relevant extract of which is set out below:-

“In terms of Section 4(1)(b) of the Citizenship Act, 1955, a person born outside India shall be a citizen of India by descent on or after the 10th day of December, 1992 if either of his parents is a citizen of India at the time of his birth. Since the father of Master Majid Laiq Ahmed, Shri Khaleeqh Ahmed was an Indian citizen by birth at the time of the birth of the 2nd Petitioner, he was automatically a Indian citizen. A copy of Section 4(1)(b) of the Citizenship Act, 1955 is enclosed herewith as Annexure-1. Despite the fact that the name of Master Majid Laiq Ahmed has been entered in his mother’s Pakistani Passport, he still is a Indian national as per Section 4(1A) of the Citizenship Act, 1955. He has to denounce his another nationality within six months of attaining full age, enclosed herewith as Annexure- II. The term full age has been defined under Section 2(4) of the said Act. The Ministry vide letter 12th January, 2017 has conveyed its permission for registration subject to provision of Section 4(1) of the Citizenship Act, 1955, enclosed herewith as Annexure – III. In view of the statutory position mentioned above without admitting any fact in the rest of Paras specifically admitted by the respondent, rest of Paras of the Writ Petition (i.e. Para 2-22) need no reply on merits for the sake of brevity.”

7. The learned counsel appearing for the petitioners also unequivocally states that petitioner no.2 has already elected (through his father and natural guardian) to be an Indian national. He further states that petitioner no.2 shall immediately, on attaining majority, apply to the Indian Consulate at Doha (Qatar) for being recognized as an Indian national. He states that immediately on an Indian Passport being issued to petitioner no.2, he will also surrender his Pakistani passport to the concerned authorities.

8. In view of the respondent's unequivocal stand that petitioner no.2 would be recognized as an Indian national provided he denounces his Pakistani nationality within a period of six months of attaining the majority, no further orders are required to be passed in this petition in this regard.

9. The learned counsel appearing for the respondent also points out that the Indian officials in Embassy at Doha (Qatar) have been delegated the powers of the Central Government to accept petitioner no.2 as an Indian national if he so elects and issue him an Indian Passport.

10. In view of the above statement, no further orders are required to be passed with regard to registering of petitioner no.2's birth by the Indian consulate at Doha (Qatar).

11. Insofar as the prayer regarding accepting petitioner no.3 as an Indian national is concerned, it is stated that she has already filed an application before the Central Government for being registered as an Indian Citizen under Section 5(1)(c) of the Act. She has also applied for exemption from the residential requirement as she is residing with petitioner no.1 at Doha (Qatar) since her marriage. The respondent shall consider the said application in accordance with law and communicate the decision to the petitioner as expeditiously as possible and preferably with a period of three months from today.

12. The petition and the pending applications are disposed of.

VIBHU BAKHRU, J

JANUARY 23, 2018/pkv