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

+ **W.P.(C) 12635/2018**

TARA PRASAD

..... Petitioner

Through Mr Suresh Srikvastava, Mr Vinayak
Srivastava, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through Mr Vikas Mahajan, CGSC for R1 and
R2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **27.11.2018**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“(a) Issue a writ of mandamus directing the respondent to dispose the application Under Section 8(2) of The Citizenship Act, 1955 filed by the petitioner and to grant Indian Citizenship to the petitioner

(b) Issue any other appropriate writ, order or direction that it deems fit in the circumstances of the case. In the interest of justice and equity.”

2. The petitioner was born on 24.02.2000 in the State of IOWA, United States of America and is a U.S passport holder. At the time of his birth, both her parents were Indian citizens as both of them were born in India. The petitioner’s father acquired the citizenship of United States of America on 07.09.2012. This was followed by the petitioner’s mother acquiring the

citizenship of that country on 19.10.2012. The petitioner acquired a U.S passport as a minor on 16.08.2000.

3. The petitioner attained the age of majority on 24.02.2018. Since she wished to resume the Indian citizenship, she elected to renounce citizenship of United States of America and become an Indian Citizen. In view of the above, the petitioner's father had approached the Indian Consulate even prior to the petitioner's becoming major requesting for the procedure by which the petitioner could resume her Indian citizenship.

4. The petitioner's grievance is that her request has not been processed.

5. Although, the petitioner was born outside India, it does appear that the petitioner is entitle to claim citizenship by descent. By virtue of Section 4 (1)(b) of the Citizenship Act, 1955 (hereafter 'the Citizenship Act'), a person born outside India after 10.12.1992, would be a citizen of India by descent if either of his parents was a citizen of India at the time of his birth. The third proviso to Section 4 (1) the Citizenship Act also expressly provides that a person would not be a citizen of India unless the birth is registered at an Indian Consulate. It, *prima facie*, appear that the third proviso only relates to the period prior to the minor attaining the age of minority. Section 4 (1A) of the Citizenship Act also expressly provides that if a minor who is also a citizen of India under Section 4(1) and also a citizen of another country shall cease to be a citizen of India if he does not renounce the nationality of the other country within a period of six months of attaining the age of majority.

6. Apart from the provisions of Section 4 of the Citizenship Act, Section 8 (2) of the Citizenship Act also enables a minor who has ceased to be a citizen of India on account of his/her parents renouncing Indian citizenship,

to resume citizenship of this country by electing to do so within a period of one year after attaining the full age of majority.

7. In this case, the parents of the petitioner had renounced the citizenship of this country after her birth and, therefore, the petitioner would have the right to elect to become a citizen of this country. It is not necessary for this Court to dwell further in this issue as the petitioner's request under Section 8 (2) is pending consideration by the respondents.

8. In view of the above, the present petition is allowed to the extent that respondents are directed to process the petitioner's request as expeditiously as possible and in any event within a period of six weeks from today. If the respondents are of the view that the petitioner's request is required to be denied, the concerned authority shall pass a reasoned order and communicate the same within the said period.

9. The petition is disposed of.

10. Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

NOVEMBER 27, 2018

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