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

Date of Decision: 06.12.2019

+ W.P.(C) 11234/2019 & CM No.46259/2019 (stay)

ANKITHA MURTHY Petitioner
Through Mr.S.P. Singh, Adv. with
Mr.Harmeet Singh, Adv. &
Mr.Dhruv Tamta, Adv.

versus

UNION OF INDIA & ORS Respondents
Through Mr.Manish Mohan, CGSC with
Ms.Manisha Saroha, Adv. for
R-1 to 3.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, Chief Justice (*Oral*)

1. Learned counsel appearing for the petitioner submitted that suffice it will be for the disposal of this petition if a suitable direction is issued to the respondents for renewal of the passport of the petitioner, which is otherwise expired on 29.10.2017, in accordance with the Passports Act, 1967.

2. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that the date of birth of the petitioner is 26.10.2004 and the place of birth is Bengaluru, India. Therefore, the petitioner is an Indian citizen by birth.

3. The petitioner joined the BGS National Public School at Bengaluru in 2017 and prior thereto, in Twinklers School, Bengaluru.

4. The petitioner's mother who was also holding the Indian passport expired on 29.03.2010. Soon thereafter, the petitioner's father migrated to United Kingdom and started practicing medicine there. The petitioner resides with her local guardians in Bengaluru and all of them are Indian citizens by birth.

5. On 30.10.2012, an Indian passport was issued to the petitioner by Regional Passport Officer, Bengaluru which was valid upto 29.10.2017.

6. It appears from the facts of the case that this petitioner, in advance applied for renewal of her passport and the same was refused vide order dated 20.02.2019 (Annexure P-7 (colly) at Page 37 to the memo of this petition) by the Regional Passport Officer, Bengaluru, under the proviso to Section 8(2) of the Citizenship Act, 1955 (hereinafter referred to as "the Act, 1955") on the ground that the petitioner's father ceases to be an Indian citizen.

7. Being aggrieved/dissatisfied by the aforesaid order dated 20.02.2019, passed by the Regional Passport Officer, an appeal was preferred by the petitioner before Chief Passport Officer who has also dismissed the appeal vide an order dated 04.09.2019 (Annexure P-9 to the memo of this petition) which is challenged in this writ petition.

8. Looking to Sections 8 and 9 of the Citizenship Act, 1955, which read as under:-

“8. Renunciation of citizenship. - (1) If any citizen of

India of full age and capacity, who is also a citizen or national of another country, makes in the prescribed manner a declaration renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority; and upon such registration, that person shall cease to be a citizen of India:

Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.

(2) Where a person ceases to be a citizen of India under sub-section (1), every minor child of that person shall thereupon cease to be a citizen of India:

Provided that any such child may, within one year after attaining full age, make a declaration that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India.

9. Termination of citizenship. - (1) Any citizen of India who by naturalisation, registration otherwise voluntarily acquires, or has at any time between the 26th January, 1950 and the commencement of this Act, voluntarily acquired the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India:

Provided that nothing in this sub-section shall apply to a citizen of India who, during any war in which India may be engaged, voluntarily acquires the citizenship of another country, until the Central Government otherwise directs.

(2) If any question arises as to whether, when or how any citizen of India has acquired the citizenship of another country, it shall be determined by such authority,

in such manner, and having regard to such rules of evidence, as may be prescribed in this behalf.”

9. It appears from the writ record that the father of this petitioner has permanently migrated to the United Kingdom and thus cease to be a citizen of India under Section 9 of the Act, 1955. The father of the petitioner has never made, in a prescribed manner, a declaration renouncing his Indian citizenship, whereas Section 8(2) of the Act, 1955 is applicable only when the citizenship has been **renounced**.

10. In the present case, the father of the petitioner has never renounced his citizenship of India. This aspect of the matter has not been properly appreciated by neither Regional Passport Officer, Bengaluru, while passing the order dated 20.02.2019 nor by the Chief Passport Officer while dismissing the appeal preferred thereagainst, vide order dated 04.04.2019. Hence both these orders are hereby quashed and set aside.

11. In the facts and circumstances of the present case, Section 9 of the Act, 1955 is applicable and not Section 8(2) of the Act, 1955. Therefore, the petitioner is legally entitled for renewal of the passport subject to fulfilling the other requisite conditions for renewal.

12. In view of the above, we hereby direct the respondent nos.1 & 2 to renew the passport of the petitioner in accordance with law, rules, regulations and Government policy and subject to the aforesaid observations of this Court, subject to other procedural aspect and payment of the necessary fee by the petitioner and subject to the production of necessary documents which are required in accordance with law.

13. It is submitted by the counsel for the petitioner that passport renewal application bearing No.BN1070675616317 is already preferred by this petitioner. This application is hereby revived with all annexures and documents annexed therewith by the petitioner and the respondent nos.1 & 2 will appreciate this application of the petitioner, which is supported by the documents already given to the respondents. The respondent nos.1 & 2 shall take immediate steps for processing the application of renewal of the passport preferably within a period of four weeks from today.

14. With these observations/directions, this writ petition is allowed.

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15. In view of the orders passed in this writ petition, this application has become infructuous and the same stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

DECEMBER 06, 2019/aa