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MAT 589 of 2020
IA No. CAN 1/2020

Rajiv Ranjan
-vs-
Union of India

(Via Video Conference)

Mr. Shayak Chakraborty
Mr. Zoheb Rauf
Mr. Rameez Alam
..... for the appellant/petitioner.

Mr. Bikramaditya Ghosh
..... for the Respondent/airport authority

Mr. Tarun Jyoti Tewari
..... for the Union of India.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Two inter-related issues arise in this appeal. First, whether the Hon'ble Single Bench by its order dated 16th September, 2020 in WPA 5211 of 2020 with CAN 1 of 2020 was correct in dismissing the writ petition on the ground that the jurisdiction to issue the Aerodrome Entry Permit (*AEP*), which has been claimed by the petitioner who holds a commercial pilot' licence, can be adjudicated by the Court in Bengaluru and, not in Kolkata having regard to the position that *AEPs* are only issued in Bengaluru.

Second, in view of the order of stay dated 12th February, 2020 granted in CRR 465 of 2020 another Hon'ble Single Bench of Calcutta High Court staying the criminal proceedings pending against the petitioner under Sections 376 and 417 of the Indian Penal Code, it is the High Court at Calcutta which can also exercise jurisdiction to grant the relief claimed by the petitioner in his writ petition.

Learned Counsel for the appearing parties have variously submitted that the *AEP* issuing authority is the Respondent no.3/Bureau of Civil Aviation Security (*BCAS*) represented by its Kolkata Regional Office and the *AEP* is normally issued from the Delhi office of the *BCAS*.

After hearing the parties in detail and considering the materials placed, this Court finds that the renewal/grant of the *AEP* is inextricably linked with the pending criminal proceedings at Kolkata, being CRR 465 of 2020.

It is trite that Hon'ble Court exercising jurisdiction under Article 226 needs to avoid hypertechnicalities for doing complete justice between the parties. The part of the cause of action arising out of the criminal proceeding pending against the petitioner which has culminated at this stage in denial of the *AEP* to the petitioner which, in turn, has resulted in the lose of his livelihood, is germane to the present proceedings both criminal and civil which have been brought before the Hon'ble Court of Calcutta.

The attention of this Court has been equally drawn to the solemn order in WP No. 15299(W) of 2019 (2019 SCC Online CAL 6445) dated 14th August, 2019 whereby at Paragraphs 7 and 8, the Hon'ble Single Bench was pleased to observe and hold as follows:-

“7. In the facts of the present case in my view, interest of justice would be sub-serve by requiring the respondent authorities to grant Aerodrome Entry Permit to the petitioner subject to any further directions that, may be issued by a Court in seisin of the complaint made by the complainant. Till such time no further directions are issued by the Court in seisin of the complaint, the authorities will issue permit to the petitioner so as to allow the petitioner to fly within the territory of India.

8. It is clarified that, these directions are subject to any other directions that, may be passed by the Court in seisin of the complaint. The authorities are at liberty to review its decision subsequent to the disposal of the criminal case.”

This Court, noticing the parity of facts and circumstances between the issues raised in WPA 5211 of 2020(supra) and the present grievance of the petitioner, is persuaded to adopt the view of the Hon'ble Single Bench at Paragraphs 7 and 8 (supra).

In the backdrop of the above discussion, the order impugned dated 16th September, 2020 stands set aside.

The petitioner shall now make a representation before the Respondent no.3, who shall take steps with its

principal/co-ordinate offices to grant the *AEP* subject to any further direction that may be passed by the Hon'ble Single Bench *in seisin* of CRR 465 of 2020.

The above directed exercise be completed within a period of three weeks from the date of communication of this order.

Since the basic facts are admitted, affidavits are not invited. However, allegations made shall be deemed to be denied.

MAT 589 of 2020 along with **IA No. CAN 1 of 2020** stand accordingly **disposed of**.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Aniruddha Roy, J.)

(Subrata Talukdar, J.)