

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 8033 of 2020

(Through Video Conference)

Mira Rani Saha

-vs.-

The Union of India & Ors.

Mr. Subhabrata Datta,
Mr. Aranya Saha
...for the petitioner

Mr. Pulakesh Bajpayee
...for the respondent-authorities

The present challenge has been preferred against an order passed by the Passport Authorities, revoking the petitioner's passport, bearing No. L2960032, purportedly under the provisions of Section 10(3)(a)(b) of the Passport Act, 1967.

Learned counsel appearing for the petitioner places reliance on several documents, including the petitioner's PAN Card, Aadhaar Card, Voters' Identity Card, Citizenship Certificate of the petitioner's husband, etc., copies of which are annexed to the writ petition and were apparently produced before the authorities, and submits that these documents were not considered at all by the passport authorities.

Learned counsel further submits that apparently, the passport authorities relied on certain vague

immigration data available with the immigration office to arrive at the conclusion that the petitioner is not an Indian citizen.

Learned counsel appearing for the respondent-authorities takes a preliminary objection to the effect that the impugned order, revoking the petitioner's passport, is appellable thus affording an equally efficacious alternative remedy to the petitioner, due to which the writ court ought to desist from interfering with the matter.

Learned counsel for the respondent-authorities further places reliance on an intimation of the office of the AFRRO, Immigration, NSCBI Airport, Kolkata, wherein it was indicated that the petitioner had fraudulently obtained Indian travel documents.

It appears from the materials-on-record that there are several documents which *prima facie* show that the petitioner is an Indian citizen.

The only document, on which the respondent-authority relied to revoke the passport of the petitioner, was the said intimation by the Immigration Authorities and some vague "data" available with the said authorities.

The respondent-authorities relied on a police report as well to pass the impugned order dated June 24, 2020 for revoking the petitioner's passport.

Learned counsel appearing for the respondent-authorities fails to produce any document which *prima facie* shows that the copies of such documents, on which the respondents relied for the purpose of revoking the petitioner's passport, were supplied to the petitioner, nor is any argument made to that effect.

It is apparent that the intimation of the Immigration office could at best be a trigger for initiating an enquiry into the citizenship of the petitioner and not the sacrosanct sole basis of holding that the petitioner is not an Indian citizen. In fact, since no documents were furnished to the petitioner to establish that the petitioner is not an Indian citizen, the purported show-cause notice issued to the petitioner was void *ab initio*. The show-cause notice ought to have been accompanied by relevant documents on which the authorities relied for the purpose of revoking the petitioner's passport, for the petitioner to represent properly her defence to such contention. As evident from the show-cause notice, the authorities merely relied on "some details" which were found against the petitioner's particulars during her travel, which "doubts" the Indian nationality claimed by the petitioner while applying for passport. It is seen from the impugned order revoking the petitioner's passport that the passport authorities proceeded on the premise that the petitioner could not submit satisfactory

response to counter the allegations of the respondents, whereas there were no concrete allegations as such apart from the vague mention of some internal profiling and immigration data available with the immigration office, without disclosing the nature of such data.

As regards the objection as to the maintainability of the present writ petition, an appeal, even if provided for in the statute, would merely be an illusory remedy in the context, since the petitioner did not get appropriate opportunity for presenting her defence to any specific allegation at all and the appellate authority, if approached, would be handicapped by the total absence of any effective rebuttal on the part of the petitioner, simply because no documents for the petitioner to rebut were furnished to her.

Under such circumstances, the hearing given to the petitioner was a mere eye-wash and a farce, since the petitioner was not furnished with any specific evidence of her being not an Indian citizen, nor were the petitioner's documents considered or adverted to in the order cancelling her passport.

In such circumstances, the show-cause notice dated December 10, 2019 and the consequent order revoking the petitioner's passport, dated June 24, 2020, which have been impugned herein, are quashed.

This order will not preclude the respondent-authorities, however, from issuing appropriate show-

cause notice with copies of all relevant documents, if any, to be used against the petitioner with regard to her Indian citizenship. If such a show-cause notice is issued, the authorities may thereafter proceed to hear the petitioner and/or consider the petitioner's representation on her defence to such specific allegations and pass reasoned order accordingly in consonance with law.

W.P.A. No. 8033 of 2020 is disposed of with the above observations.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)