



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).Nos.15778 & 15779 of 2019

and W.M.P.(MD).Nos.12512, 12514, 12511 & 12513 of 2019

WEB COPY

Gerardus Antonius Jacobus Mol
Vinkenstraat 47-2211LB,
Noordwijkerhout, Netherlands
Having Address in India at:
Holland House
No.1/452, Kamarajar Lake Border,
Athoor Post, Dindigul - 624 701.

.. Petitioner in W.P.(MD).No.15778 of 2019

Gemma Cornelia Johanna Maria Den Boer
Vinkenstraat 47-2211LB,
Noordwijkerhout, Netherlands
Having Address in India at:
Holland House
No.1/452, Kamarajar Lake Border,
Athoor Post, Dindigul - 624 701.

.. Petitioner in W.P.(MD).No.15779 of 2019

Vs.

- 1.Union of India
rep. by Secretary to Government,
Ministry of Home Affairs
East Block - VIII, Level-2,
Sector - 1, R.K.Puram,
New Delhi - 110 066.
- 2.The Foreigners Regional Registration
Officer cum Civil Authority
Bureau of Immigration
Ministry of Home Affairs,
Govt. of India, No.26, Haddows Road,
Chennai - 600 006.
- 3.The Registrar of Companies
Stock Exchange Building, II Floor,
Singanallur, Coimbatore - 641 005.

.. Respondents in both petitions

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the 2nd respondent to grant Entry Permit to the petitioners to enter into India under the Revamped Fast Track Business Visa Scheme, which is valid till 28.11.2019 by lifting the ban, and grant registration certificates for a longer stay than 180 days to the petitioner.



For Petitioner
For Respondents

: Mr.R.Prabhakaran
: Mr.M.Kannan
Central Government Standing Counsel
(in both petitions)

ORDER

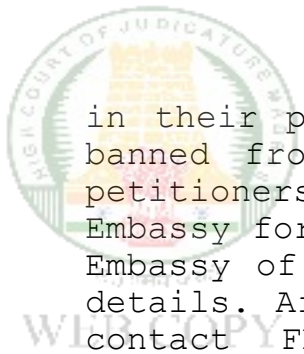
The petitioners in these writ petitions are husband and wife. The petitioners are citizen of foreign national and has filed these writ petitions for the issuance of Writ of Mandamus, directing the 2nd respondent to grant Entry Permit to the petitioners to enter into India under the Revamped Fast Track Business Visa Scheme, which is valid till 28.11.2019 by lifting the ban, and grant Registration Certificates for a longer stay than 180 days to the petitioner.

2.The petitioners are the citizens of Netherland. It is stated that the petitioners were granted Visa under Revamped Fast Track Business Visa Scheme for the period from 29.11.2016 to 28.11.2019. It is stated by the petitioner that they are the Directors of two Indian Companies registered in India and got three years Business Visa under the Revamped Fast Track Business Visa Scheme.

3.It is also stated that the petitioners had made an investment of 53,000 Dollars, (approximately Rs.35,06,500/-) in an India Company. The Visa was granted by the Indian Embassy in Netherland for a period from 28.11.2016 to 28.11.2019. The petitioner states that they entered into India for the first time on the said Visa on 05.12.2016. The petitioners state that they got registration for the period from 16.05.2017 till 15.05.2018. On the expiry of period of registration, the petitioners left India. They returned to India on 16.05.2018.

4.Thereafter, the petitioners applied for Registration Certificates with the second respondent. When the application was pending and under process, it is stated by the petitioners that they had to return to Netherland for a condolence. The petitioners applied for Exit Permit seeking to leave the Country, which was rejected but later granted. It is stated by the petitioners that such Exit permit was against the cancelled registration application and with a wrong Exit Port as Madurai instead of Bangalore. The final Exit Permit was granted on 25.02.2019. However, it was observed by the Second Respondent that Visa Extension was denied for not fulfilling/confirming to Business Visa in the cause of petitioner in W.P.(MD).No.15778 of 2019.

5.The petitioners stated that pending Registration Certificates, they got Exit permit to leave the Country on or before 28.02.2019 from Bangalore. The petitioners returned to India on 04.04.2019. Stating that the Visa is still valid upto 28.11.2019, the petitioners contend that they thought that their reentry into the country would be without any hassle. However, the officials stopped the petitioners at Madurai and got a stamp "Entry Refused"



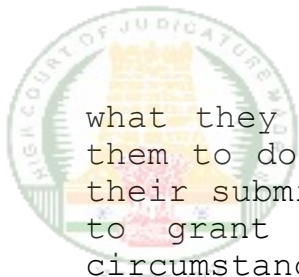
in their passports. The petitioners were informed that they were banned from entry into India and no reason was adduced to the petitioners. Since the petitioners are advised to contact Indian Embassy for further assistance, it is stated that they contacted the Embassy of the India in Hague on 08.04.2018 who sought for further details. After furnishing details, the petitioners were directed to contact FRRO, Chennai, India for resolving the issue. The petitioners state that they were at loss whether they are banned from entering India for certain period or to apply for a new Business Visa. The petitioners were deported long back. The main ground on which the petitioners have approached this court is that the petitioners' stay was refused and they were deported without following the principles of natural justice. The petitioners have not challenged the order refusing to extend Visa and their Visa has expired on 28.11.2019.

6.It is the case of the petitioner that the petitioners who have not done any thing illegally has now been condemned for no fraud or steal committed by them. It is stated that India is a signatory in the International Covenant on Economic, Social and Cultural rights, besides International Covenant on Civil and Political Rights based upon United Nations Charter held in New York in 1966.

7.The contention of the petitioner in this writ petitions is that the Business Visa was granted to the petitioners for a period from 20.11.2016 to 28.11.2019 based on a scheme only to have long term business assessment with Indian business and thereby enabling the visa holders to frequently travel to India. Though the petitioners have referred to various schemes, circular and the policy of Government, none of them which have been referred in the affidavit is placed before this Court.

8.The petitioners have filed the present writ petitions to direct the second respondent to grant Entry Permit to the petitioner under the Revamped Fast Track Business Visa Scheme, which is valid till 28.11.2019. The period even according to the petitioner has expired. Therefore, the petitioners' prime contention relying upon their earlier Visa does not help them to go with the prayer in the writ petitions as on date. It is admitted that the petitioners were deported long back. The petitioners themselves have admitted that the passport of the petitioner carried the entry that they were not permitted to enter India. The petitioners have not produced any provision of Statute or Executive order that would save the petitioners to seek re-entry. They have not made any request or representation as to why and how they are entitled to seek re-entry after the expiry of Visa.

9.The writ of Mandamus will lie against State to perform their statutory function or to perform what is required from them as
<https://hcservices.ecourts.gov.in/hcservices/> cannot direct the statutory authorities to perform



what they are not supposed to do or what the law does not require them to do. The petitioners have not satisfied this Court by any of their submissions that the respondents have erred legally or refused to grant permission quiet contrary to the statute. In such circumstances, this Court is unable to entertain this writ petition.

10.Hence, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed. However, liberty is given to the petitioner to seek Visa extension or fresh Visa or to challenge the order refusing to extend Visa in the manner known to law.

Sd/-

Assistant Registrar (AD-I)

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/ /2020

Sub Assistant Registrar(CS)

TM

1. The Secretary to Government,
Union of India
Ministry of Home Affairs
East Block - VIII, Level-2,
Sector - 1, R.K.Puram,
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- 2.The Foreigners Regional Registration
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- 3.The Registrar of Companies
Stock Exchange Building, II Floor,
Singanallur, Coimbatore - 641 005.

+1 CC to M/s.M.KANNAN, Advocate (SR-8853[F] dated 27/02/2020)

+2 CC to M/s.J.JEYAKUMARAN, Advocate (SR-8539 & 8540)

W.P.(MD).Nos.15778 & 15779 of 2019

25.02.2020

SMA/17/03/2020/4P/7C