

03-08-2021
sl. no. 5
tkm/ct. 8

WPA 11766 of 2021
Gour Hari Guchhait
Versus
The Union of India & Ors.
(Through Video Conference)

Mr. Debasish Banerjee
Mr. S Naskar

... for the petitioner

Mr. P Edulzi
Mr. H C Mittal

... for the UOI

Petitioner is aggrieved by a decision dated October 13, 2020 issued by the Passport Authority impounding the passport of the petitioner.

Learned advocate for the petitioner submits that the petitioner was issued a passport. Such passport stands impounded by the impugned order. The petitioner received a show cause notice from the Passport Authority. The petitioner replied thereto. Unfortunately, the receipt of the reply by the Passport Authority is presently not available with the petitioner. The impugned order proceeds on the basis that the petitioner did not submit any reply. The impugned order is premised upon a criminal case initiated against the petitioner. The petitioner was the Secretary of a Housing Society. As the Secretary of such Society, demand for maintenance charges were made from the members of the Society. Apparently, one of the members issued

a legal notice against the petitioner claiming that the petitioner was trying to extort money from one of the members. A criminal case was initiated. The criminal case resulted in a charge sheet. The petitioner applied for discharge. The application for discharge is yet to be finally decided.

Learned advocate for the petitioner submits that the petitioner is of advanced age. Both children of the petitioner are residents of foreign countries. The daughter of the petitioner is a resident of Japan. She is expecting .The petitioner requires the passport for travel to Japan.

Union of India is represented.

Learned advocate for the petitioner submits that the petitioner preferred an appeal without requisite fees thereon. Therefore, the appeal could not be disposed of.

In the facts of the present case, the petitioner preferred an appeal against the order dated October 13, 2020. Apparently, the appeal is defective and is also required to be accompanied by an application under section 5 of the Limitation Act, 1961.

Given the age of the petitioner and the facts of the present case, I am of the view, it would be appropriate to request the appellate authority to consider the appeal of the petitioner to be within the period of limitation. The petitioner will cure the other defects and pay requisite fees for the appeal. Immediately upon

curing of such defect, the appellate authority will take up the appeal and decide the same as expeditiously as possible and preferably within a fortnight from the date of curing of the defects on payment of requisite fees. The appellate authority will afford the petitioner an opportunity of hearing. In the event, the petitioner does not appear or chose not to appear before the appellate authority it will proceed to decide the appeal in accordance with law treating the same to be within the period of limitation. The appellate authority will communicate its decision forthwith.

WPA 11766 of 2021 is disposed of without any order as costs.

Since no affidavit is called for from the parties , allegations made in the petition are deemed to be denied.

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

(DEBANGSU BASAK, J.)