

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5415 OF 2021

Vaishali Gotsurve] **Petitioner**

Vs.

The Union of India and others.] Respondents

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Mr. Prosper D'Souza, for Petitioner.

None present for Respondents.

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**CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : 9th SEPTEMBER, 2021.**

P.C.

1. By this petition, the petitioner has prayed for following substantive reliefs;

(a) An appropriate writ of certiorari/mandamus quashing the alleged and impugned communication letter dated 17th February, 2020 and 1.10.2020 by all the Respondents be issued.

(b) An appropriate writ in, order or direction in the like nature be issued directing Respondent Nos.1, 2, 3 and 4, to impound passport/travel document of alleged passport holder Ms Vriushali Godeswar, under Section 10 (3) (a) of the Passport Act, 1967.

(c) Pending the hearing and final disposal of this Petition, Respondent Nos. 1, 2, 3 and 4 be directed to suspend the travel document/passport issued illegally to one Ms. Vrushali Godeswar, issued illegally to her, in the status of spouse of employee (brother of the Petitioner) of Respondent Nos. 1, 2, 3 and 4.

(d) An appropriate writ, order of direction in the like nature be issued thereby directing the Respondent Nos. 1, 2, 3 and 4, to ensure that no government benefit (s) is disbursed to the alleged spouse of the said employee (brother of the Petitioner) of Respondent Nos. 1, 2, 3 and 4.

(e) An appropriate writ, order or direction in the like nature be issued thereby directing Respondent Nos. 1, 2, 3 and 4 to treat the alleged marriage which is claimed to be solemnized and registered on 5.7.2018 at Arya Samaj Vivah Mandir Trust Shop No.10, K-Block, Kavi Nagar Market, Ghaziabad, Ghaziabad, Uttar Pradesh – 201 001 as null and void, at the instance of the Petitioner/family member/blood relative.

(f) An appropriate writ, order or direction in the like nature be issued and it be declared that the Respondent Nos. 1, 2, 3 and 4 have given wrongful

possession of the alleged passport/travel document to the alleged passport holder Ms. Vrushal Godeswar, in violation of section 10 (3) (a) of the Passport Act, 1967 with retrospective effect.

(g) To issue appropriate writ, order or directions in the like nature be issued to Respondent Nos.1, 2, 3 and 4, not to issue diplomatic passport in the name/surname of alleged passport holder viz. Ms. Vrushali Godeswar, in the status of spouse of the employee of Respondent Nos.1, 2, 3 and 4 and not to use the surname 'Gotsurve' in the future for obtaining any travel document/passport, and further not to grant any kind of government benefit (s) in the status of spouse to the alleged passport holder and also to their children in the name/surname of the government employee of the respondent Nos. 1,2,3 and 4.

(h) To issue appropriate writ, order or directions to Respondent Nos. 1,2,3 and 4 not to allow alleged passport holder to stay with their employee at his working place abroad by issuing any passport/travel document on the basis of the alleged marriage certificate dated 5.7.2018, or email communication of the employee or affidavit declaration of the employee or any other document and to declare the entire period of the stay of the

alleged passport holder at the posted place of the employee as not amounting to in the nature of marriage or that of having marital status or that of she (alleged passport holder) being a spouse of the said employee of Respondent Nos.1,2,3 and 4.

(i) Pending the hearing and final disposal of the present Petition, all the Respondents be directed to take effective steps towards impounding the passport/travel document issued illegally;

(j) Ad interim reliefs in terms of prayer clause (a) and (i) above may kindly be granted.

(k) Any other and further orders may be passed in favour of the Petitioners as this Hon'ble Court deems fit and proper in the facts and circumstances of the case”.

2. The petitioner claims to be sister of Mr. Atul Gotsurve who is an employee of the Central Government working at secretariat level and presently posted as a diplomat at Pyongyang, North Korea.

3. Grievance of the petitioner is that the respondents have issued a diplomatic passport in favour of one Ms. Vriushali Ghodeswar who claims to be the wife of Mr. Atul Gotsurve, petitioner's brother. The petitioner has emailed her grievance to

respondent No.1 on 5th August, 2019 and requested to impound the said diplomatic passport issued in favour of Ms. Vriushali Ghodeswar.

4. Strangely, it is the contention of the petitioner that under the influence of the said Ms. Vriushali Ghodeswar, her brother Atul threatened her (petitioner) that he would end his life, consequent upon which all the benefits would be given to the said Vruishali Ghodeswar. The petitioner contends that respondents have not conducted proper inquiry, however, they intimated the petitioner that Mr. Atul Gotsurve in his affidavit stated before the respondents that Vruishali Ghodeswar is his spouse. In view of the said declaration, they cannot initiate any legal action for impounding and seizing the diplomatic passport granted in favour of Vriushali Ghodeswar.

5. We have heard learned Counsel for the petitioner at length.

6. When we asked the learned Counsel appearing on behalf of the petitioner as to the locus standi of the petitioner, there was no satisfactory answer.

7. It reveals from the record that marriage of Atul Gotsurve was solemnized on 5th July, 2018 at Arya Samaj Vivah Mandir Trust Shop No.10, K-Block Kavi Nagar Market, Ghaziabad, Ghaziabad, Uttar Pradesh – 201 001. On the basis of a declaration to that effect, the marriage registration officer, Gaziabad had registered the marriage of Atul Gotsurve with the said Vruishali

Ghodeswar as per Uttar Pradesh Marriage Registration Rule, 2017 vide Registration No.947 at SRO Office – Sadar First, District Ghaziabad.

8. The petition deserves to be dismissed in *limine* principally on the following reasons;

(a) Firstly, the petitioner has no locus standi in the sense there is no cause of action for invoking writ jurisdiction of this Court under Article 226 of the Constitution of India. On being asked, learned Counsel for the petitioner could not explain as to how the petition is tenable.

(b) Secondly, there is no breach of fundamental right of the petitioner;

(c) Thirdly, there is no question of violation of principles of natural justice, for, had there been any grievance qua Mr. Atul Gotsurve, he would have initiated necessary legal action which is not the case in hand and ;

(d) Fourthly, the impugned communication issued by the Ministry of External Affairs, New Delhi dated 1st October, 2020 to the petitioner does not warrant interference of this Court as the respondents have acted well within their jurisdiction.

9. It would not be out of place to extract the impugned communication dated 1st October, 2020 which reads thus;

“Dear Madam,

“ This has reference to your email dated 09 September 2020 regarding your request for taking legal action against passport issuing authority in New Delhi.

2. I am directed to convey that your request has been duly examined and it has been found that Ms. Vrishali Ghodeswar has been declared as the spouse by Shri Atul M. Gotsurve in his declaration to the government. The passport has been issued to Ms. Vrishali Ghodeswar based on appropriate documents that were submitted by Shri Atul Gotsurve and as per the extant rules and regulations.

3. The matter is personal in nature and therefore the Ministry is not in a position to take any action in this regard”.

10. For the reasons stated aforesaid, there is absolutely no substance in the petition which needs to be dismissed and as such stands dismissed. However, there shall be no order as to costs.

[PRITHVIRAJ K. CHAVAN, J.]

[K. K. TATED, J.]