

01-03-2022

ct no. 13

Sl.8

pk

WPA 3291 of 2022

Zia Sharif Hussain @ Tushar Subash Roy

-Versus-

Union of India and others

(Via Video Conference)

Mr. Biswaroop Bhattacharya,
Mr. Krishnendu Bhattacharya,
Mr. Pratik Majumder,
Mr. P. Gangyky,
Mrs. Shalini Bairagi

... for the petitioner.

Mr. Amajit De

... for the Union of India.

Mr. Raha Saha,
Ms. Tanusri Chanda

... for the State.

The writ petitioner is aggrieved that the Unique Identification Authority of India (UIDAI) has issued a show cause notice to him on 27.01.2022. His Aadhar Card would be de-activated if he does not produce an appropriate judgement or decision with regard to residence in India or his citizenship.

The writ petitioner claims to have been born in Calcutta in the year 1982. His birth certificate was issued in the year 1994 by the KMC. The petitioner had changed his religion and name and got married. He was settled in

Mumbai. He obtained a Passport and Aadhar Card from Mumbai. He regularly visited Bangladesh. While returning to India on one such trip, he was apprehended at the border Check Post, at Haridaspur, Petrapole. Discrepancies were found in the petitioner's documentation and notice was sent to the Regional Passport Office, Mumbai. An FIR was also registered and a charge sheet appears to have been filed being Petrapole P. S. C. S. No. 154 of 2021 dated 22nd October, 2021 under Sections 417/419/465/467/468/471 of the IPC and Section 14 of the Foreigners Act. The petitioner's passport has been revoked by the RPO, Mumbai. An appeal is pending in this regard.

Counsel for the petitioner submits that he could not represent before the RPO, Mumbai to the show cause notice since he was in custody in connection with the criminal case. The petitioner is on bail.

Counsel for the petitioner would argue that the order of bail itself will clearly indicate that the petitioner was born in Calcutta.

Therefore, according to the petitioner, the entire case against him by the Immigration

Officer at Petrapole is baseless. He, therefore, seeks quashing of the entire proceedings.

This Court has carefully considered the arguments of the parties. This Court notes that there is a finding by an authority constituted statute of discrepancies in the petitioner's passport based on which it has been revoked. There is also charge sheet filed against the petitioner under the appropriate penal laws referred to herein above.

In the above circumstances, the petitioner is not entitled to any relief under Article 226 of the Constitution of India with regard to his Aadhar Card or its proposed de activation.

It is, however, made clear that the observation of this Court should not stand in the way of the Appellate Authority considering the petitioner's appeal under the Passport Act. The charge sheet may be taken up same for committal in trial expeditiously.

The writ petition is, therefore, dismissed.

Interim order, if any, is vacated.

This Court is not inclined to entertain the petitioner's prayer for quashing of the charge sheet since this Court does not find it to be in abuse of process of law or without jurisdiction.

There will be no order as to costs.

(Rajasekhar Mantha, J.)