

17th August,
2022
(AK)
03

W.P.A 8277 of 2022

Sri Apurba Brahma
Vs.
The Union of India and others

Mr. Sekhar Barman
Mr. Rohit Prosad

...for the petitioner.

Mr. S. Bera

...for the respondents.

Learned counsel for the petitioner contends that the passport of the petitioner was impounded on April 20, 2022 on grounds unknown to the petitioner.

Although it is provided in Section 10-A of the Passports Act, 1967 that such impoundment cannot exceed four weeks and if it is to be extended thereafter, the Central Government or the designated officer has to pass a reasoned order recorded in writing for such extension, no reasoned order has been communicated to the petitioner, nor any hearing has been given to the petitioner till date.

Learned counsel appearing for the respondent authorities contends that a notice was given for hearing the petitioner as long back as on July 5, 2021.

However, since the petitioner skipped the opportunity and did not turn up, ultimately the passport was seized on April 20, 2022.

Yet, learned counsel for the respondent authorities fails to produce any order or instruction to the effect that the impoundment was extended by a reasoned order in writing after the expiry of four weeks from its seizure.

In such view of the matter, the further withholding/impoundment of the passport is patently illegal.

The judgment of *Suresh Nanda Vs. Central Bureau of Investigation* reported at (2008) 3 SCC 674, relied on by the petitioner also provides that since impounding of a passport has civil consequences, the Passport Authority must give an opportunity of hearing to the person concerned before impounding his passport.

Although it has been alleged by the respondent authorities that the petitioner did not appear despite getting opportunity of hearing, the subsequent continuation of impoundment without a reasoned order in writing is palpably *de hors* the law.

However, it has to be noted that since admittedly criminal cases are pending against the petitioner, the immediate release of the passport may result in consequences which will be irretrievable.

Hence, keeping in view such factual scenario, WPA 8277 of 2022 is disposed of by directing the respondent no.4, that is, the Regional Passport Officer, Kolkata to immediately issue a notice to the petitioner for hearing

the petitioner on the question of further extension of the impoundment of his passport.

Such notice shall be given within a week from date and the hearing will be given within three weeks from date.

Upon such hearing being given, the respondent authorities shall take a call on extension and pass a reasoned order for extension, in the event the impoundment is extended; otherwise the passport shall be released in favour of the petitioner by the respondent authorities.

The entire exercise must be mandatorily completed within four weeks from date.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)