

Dusane

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO.9289 OF 2021

BHALCHANDRA
GOPAL DUSANE

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BHALCHANDRA
GOPAL DUSANE
Date: 2022.05.09
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Sanjeeb Ranjit Das
Age 52 years, Occ. : Business
Address : 'C'- 2503, Athena Rustomjee Urbania,
Majiwada, Thane (West), Mumbai 400601.
...Petitioner

Presently residing at S7-604,
Godrej Prime, Sheel Colony,
Chembur, Mumbai - 400 071

Versus

1. The State of Maharashtra
through the office of Government Pleader,
Bombay High Court
...Respondents
2. Union of India,
Ministry of Law & Justice,
Department of Legal Affairs,
Having its office at : 2nd floor
Ayakar Bhavan, New Marine Lines,
Mumbai - 400 020.
3. The Deputy Passport Officer,
Regional Passport Office, Mumbai
Plot No. C-45, "G" Block,
Videsh Bhuvan, BKC, Bandra (East),
Mumbai - 400 098
4. The Chief Passport Officer,
PSP Division, Patiala House Annexe,
Tilak Marg, New Delhi - 110 001.

5. Central Bureau of Investigation,
Bank Securities & Fraud Cell,
Having its office at 3rd & 4th Floor,
Plot No. C-45, "G" Block, BKC,
Bandra (East), Mumba- 400 098

Mr. Aseem Naphade i/by Mr. Mukund Pandya for the Petitioner

Mr. S.D. Vyas, 'B' Panel Counsel for State- Respondent No. 1
Mr. D.P. Singh for Respondent Nos. 2, 3 and 4 / UOI.
Mr. H.S. Venegaonkar for Respondent No. 5 / CBI.

CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.
DATED : 2nd MAY 2022

P.C. :

1. Heard learned counsel for the parties.
2. Learned counsel for the petitioner only presses for clause (b) of the petition, which reads as under :

“b) This Hon'ble Court be pleased to issue a writ of Mandamus/ Certiorari or writ in the nature of Mandamus/ Certiorari or any other appropriate writ, order or direction thereby calling for the records from the Regional Passport office, Mumbai and on perusal thereof be pleased to quash and set aside the impugned order dated 15th November 2019 passed by the Chief Passport

Officer, Mumbai, the Respondent No.4 herein, whereby it is ordered to impound the passport of the petitioner being number R-2428678 dated 06-03-2017 under the provisions of Section 10(3)(e) of the Passport Act."

3. The grievance of the petitioner is, that the impugned order dated 15th November 2019 passed by the Chief Passport Officer, confirming the action of the Passport Officer i.e. of impounding the passport under Section 10(3) (e) of the Passport Act, 1967, is without any reasons.

4. Learned counsel for the petitioner submits that infact, the Respondent no.4 i.e. Chief Passport Officer's opinion that registration of an F.I.R., leads to impounding of the passport, is legally not sustainable, and as such shows non application of mind.

5. Mr. Singh, learned counsel appearing for the respondent nos. 2, 3 and 4 states that, if, the matter is remitted back to the appellate authority i.e. the Respondent no.4/Joint Secretary (PSP) & Chief Passport Officer,PSP Division, Patiala House Annexe,Tilak Marg, New Delhi-110 001, the appellate authority will reconsider the petitioner's appeal on merits, in accordance with law.

6. Perused the papers. Vide order dated 7th March 2019, the Deputy Passport Officer, Mumbai impounded the petitioner's passport under Section 10(3) (e) of the Passports Act, 1967.

7. Being aggrieved by the said order dated 7th March 2019, the petitioner filed an appeal before the Joint Secretary (PSP) & Chief Passport Officer, under Section 11 of the Passport Act. The Joint Secretary (PSP) & Chief Passport Officer vide order dated 15th November 2019 dismissed the petitioner's appeal and as such confirmed the order passed by the Deputy Passport Officer, Mumbai i.e. of impounding the petitioner's passport under Section 10(3)(e) of the Passports Act. The impugned order dated 15th November 2019, in particular, paragraph 9 of the said order, reads thus :

“9. And now, therefore, having gone through all the records and in light of the full facts and circumstances of the case, the appeal submitted by the Appellate and the personal hearing with his counsel, I, as the Appellate Authority, as per the provisions of Section 11 of the Passport Act, 1967, decide that :

(i) The action of the PO in impounding passport No. R.2428678 under Section 10(3)(e) of the Passports Act,

1967 was in order.

(ii) The appeal is not allowed."

8. The aforesaid paragraph does not reflect the reason/reasons for dismissing the petitioner's appeal. Mere registration of an F.I.R./filing of charge-sheet, is not a ground for impounding the passport.

9. The said authority has not considered the appeal on merits, and as such, we deem it appropriate to quash and set aside the impugned order dated 15th November 2019 passed by the Joint Secretary (PSP) and Chief Passport Officer and remit the matter back to the said authority i.e. Joint Secretary (PSP) & Chief Passport Officer, to consider the petitioner's appeal afresh, on its own merits, in accordance with law. Since we have quashed the order dated 15th November 2019 and remitted the matter back to the Appellate Authority, for fresh consideration in accordance with law, the petitioner's appeal, stands restored back to its original file.

10. The said appeal to be decided by the Respondent no.4, Chief Passport Officer as expeditiously as possible and in any event, within four weeks from the date of receipt of this order.

11. The petition is allowed and disposed of in the aforesaid terms.
12. All contentions of all the parties are kept open.
13. All the parties to act on authenticated copy of this order.

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.