

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO.550 OF 2022

PETITIONER: Rajendra Eknathrao Vikhe,
Aged about 61 years,
Occupation - Chancellor,
Pravara Institute of Medical Sciences,
Resident of Loni (BK), Tahsil Rahata,
District Ahmednagar 413736.

V E R S U S

RESPONDENTS :

1. The Union of India,
Through the Secretary,
Ministry of External Affairs,
South Block, New Delhi.
2. The Economic Offences Wing,
Crime Branch, Nagpur, having its
office at Civil Lines, Nagpur.
3. The Regional Passport Officer, Pune,
having its office at Regional Passport
Office, Passport Bhawan, SR No.5/2/2,
Baner-Pashan, Link Road,
Baner, Pune 411 045.

Shri A. A. Naik, Advocate for petitioner.
Ms. M. R. Chandurkar, Advocate for respondent Nos.1 and 3.
Shri S.M. Ghodeswar, Additional Public Prosecutor for respondent No.2.

**CORAM:- MANISH PITALE AND
VALMIKI SA MENEZES, JJ.**

RESERVED ON : 25/08/2022.

PRONOUNCED ON : 29/08/2022.

JUDGMENT : (PER VALMIKI SA MENEZES, J.) :

1. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. This Writ Petition invokes our powers under Article 226 of the Constitution of India and seeks a declaration to declare that the action on the part of respondent No.3, Regional Passport Office, Pune in directing the Petitioner to surrender his passport based upon incorrect adverse Police verification Report is violative of Article 21 of the Constitution of India. The petition also seeks a declaration that the Petitioner is entitled to the return of his passport bearing No. Z6784605 dated 07/07/2022 and a direction to Respondent No.3, Regional Passport Office, Pune, to forthwith return the said passport, to enable the petitioner to travel abroad; and for a further direction to the Respondent No.2, Economic Offences Wing, Crime Branch, Nagpur, to produce on record the Adverse Police Report sent by it to Respondent No.3, forming the basis for the direction issued by the respondent No.3 to the petitioner, to surrender his passport.

3. The facts leading to the filing of this Writ Petition, as stated by the petitioner, are as under :-

a] That the petitioner is a Chancellor of Pravara Institute of Medical Sciences, which is a Multi-Faculty College, running various institutions in village Loni, Tah. Rahata, Dist. Ahmednagar; that the Petitioner is also the Secretary of Pravara Medical Trust (hereinafter referred to as a "Trust"), which is the holding Trust of Pravara Institute of Medical Sciences, and in his capacity, as a Chancellor of the said Institute, the petitioner has to often travel abroad to attend Conferences and Medical Seminars. It is averred that since the Petitioner's passport was due to expire on 20/12/2022, he applied to the Respondent No.3 for renewal of his passport, which renewal was granted for a period of 10 years and a new passport bearing No. Z6784605 was issued to him.

b] That on 02/09/2013, the Trust received a donation of Rs. One Crore by cheque, from a company named "Wasankar Wealth Management Limited" (hereinafter referred to as 'WWML') and the said donation had been applied by the Trust to provide medical treatment to its beneficiaries. One Shri Vivek Ashok Pathak had lodged a complaint against WWML, alleging that the said company received a deposit of Rs.2,74,36,000/- from him, promising to pay a handsome return on the said investment, which

amount was never returned, pursuant to which, a complaint came to be filed on 09/05/2014 by the said Shri Vivek Pathak, which was registered against WWML under the provisions of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999; Respondent No.2, the Investigating Agency enquired into the said complaint, and issued summons dated 25/08/2015 under Sections 91 and 160 of the Code of Criminal Procedure to the Trust, directing the Trust to produce documents relating to the aforesaid donation received from WWML, to which the Trust replied, furnishing its accounts. The Respondent No.2 issued further summons on 04/11/2015 to the Trust under Section 102 of the Code of Criminal Procedure and under Section 8 of the Maharashtra Protection of Interest of Depositors Act, 1999 (hereafter referred to as 'MPID Act') alleging therein that the donation received by the Trust was part of the criminal proceedings and directed the Trust to deposit the amount of Rs. One Crore with the Designated Court; in reply, the Trust stated that there was no need of attaching their bank account nor was there any question of depositing the donation amount, as the same was received towards charity in the course of its business.

c] Yet, another summons was issued to the Trust on 05/02/2016 by the Respondent No.2, seeking particulars of the

amount of the donation spent by the Trust, who in turn, replied on 22/02/2016 along with all relevant material including a certificate issued by its Chartered Accountant with details of expenditure. In reply to further summons issued by Respondent No.2 on 09/03/2016, the Trust provided Respondent No.2 with its balance sheet along with all supporting documents, despite which Respondent No.2 issued a letter on 14/06/2016 to the bankers of the Trust directing them to withhold an amount of Rs. One Crore in the bank account, pending investigation on the said complaint. The Trust filed criminal proceedings before the Designated Court under MPID Act, which Application came to be rejected. In the meantime, the Respondent No.2 filed an Application under Section 8 of the MPID Act before the Designated Court, also impleading therein the Trust, and seeking attachment of the amounts in the bank account of the Trust. The application is still pending adjudication.

d] That the Petitioner received an e-mail from the Respondent No.3 on 15/07/2022, stating therein that an Adverse Police Report had been received by it from Respondent No.2, in view of the pendency of Case No.316/2017 before the Designated MPID Court. The petitioner was called upon to show cause as to why he

should not surrender his passport and the same be impounded, and action be taken against him under the provisions of Section 12(1)(d) of the Passports Act, 1967.

The Petitioner replied to the notice on 20/07/2022, stating that he was not an accused in Crime No.156/2014 registered by the Respondent No.2 on a complaint made by the said Shri Vivek Pathak against WWML, and its Directors, the Petitioner further stated that there were no cases pending against the petitioner in his personal capacity in any Court, and that the petitioner was not a party to proceedings in Misc. Criminal Case No.316/2017 before the Special Judge, under MPID Act. In spite of this reply, Respondent No.3 orally directed the Petitioner to surrender his passport, which he did on 08/08/2022.

4. Based upon these facts, the petitioner seeks our intervention in writ jurisdiction for the aforesaid declaration and direction to the Respondent Nos.2 and 3, primarily to secure the release of his passport to enable him to travel to attend a conference which is due to take place in Italy on 08/09/2022.

5. The Passport Officer, Nagpur has filed an Affidavit in Reply dated 23/08/2022, on behalf of the Respondents and in para No.4 thereof has stated, that on 14/07/2022 the Passport Office received a communication from Loni Police Station, District

Ahmednagar, that an "Adverse Report" stating that the Economic Offences Wing at Nagpur had registered a Case No.316/2017 on 04/02/2017 under the MPID Act was filed against the Petitioner, and that the said case was under trial before the District Judge-5 and Additional Sessions Judge at Nagpur. The Affidavit further states that based upon the provisions of GSR 570(E) dated 25/08/1993, the Petitioner was requested to surrender his passport and to obtain, in terms of above referred GSR, "No Objection Certificate" issued by the concerned Court, to enable to return of the passport to the petitioner. The Affidavit, however, does not specifically state that to the knowledge of the Affiant, the Petitioner had been in fact impleaded as an accused in any Criminal Proceedings, nor does it specifically state that the Petitioner was a party to or accused in any Court or in any criminal investigation in his personal capacity or proceeding before any Court.

It is thus, clear from the Affidavit that the admitted position, as a fact, is that the petitioner has not been accused in any criminal offence under investigation, and more specifically in Crime No.156/2014 or in Misc. Cri. Application No.316/2017 pending before the Designated Court under the MPID Act.

6. Shri Akshay Naik, learned counsel for the petitioner submitted before us that it being an admitted position of fact that the Petitioner was not an accused in Crime No.156/2014, registered against the Trust and WWML, nor is he an accused in Special MPID Case No.4/2014, or has been directly impleaded or involved in Misc. Criminal Application No.316/2017, pending at the behest of Respondent No.2 before the Special Court, the action on the part of Respondent No.2 in communicating to the Respondent No.3 any Adverse Report in relation to the Petitioner or, the action of Respondent No.3 directing deposit of the petitioner's passport before it on the basis of unsubstantiated allegation that there was Adverse Police Report, was arbitrary, without proper reasoning and therefore, violative of the petitioner's fundamental rights under Article 14 and Article 21 of the Constitution of India.

The learned counsel further submits before us that there is no application of mind to the Show Cause Notice dated 15/07/2022 issued by the Respondent No.3 to the Petitioner, nor has the Respondent passed any speaking order before directing the Petitioner to surrender his passport based upon the unsubstantiated communication that there was an Adverse Police Report, issued by Respondent No.2 to the Respondent No.3. He

further submits that the action on the part of Respondent No.3 in directing the Petitioner to surrender his renewed passport is wholly unsustainable, without the Respondent applying its mind to the contents of the replies filed by the Petitioner before it, wherein the Petitioner has specifically brought to the notice of the authorities that he is not an accused in Crime No.156/2014, nor has he been charge-sheeted in the said crime, or any case found pending against him in his personal capacity. The learned counsel submits that the directions issued to him to surrender his passport without considering the specific statement in the Petitioner's Reply dated 20/07/2022 or without the authority ascertaining the true facts and obtaining the factual details and material which constituted proof for the adverse inputs claimed to have been received by the authority, are arbitrary.

7. Shri A. A. Naik, learned counsel further submitted before us that the Hon'ble Supreme Court in the case of Satwant Singh Sawhney Vrs. D. Ramarathnam, Assistant Passport Officer, New Delhi and others, reported in AIR 1967 SC 1836 has specifically held that under Article 21 of the Constitution of India, no person can be deprived of his right to travel except in accordance with the procedure established by law. He further

argues on the basis of the same Judgment that refusal to return the Petitioner's passport on the basis of an order which has foundation in a patently erroneous adverse input against the Petitioner, is arbitrary and offends Article 14 of the Constitution of India. The learned counsel placed reliance on the Judgment of the Hon'ble Supreme Court in the case of Smt.Maneka Gandhi Vrs. Union of India and another, reported in AIR 1978 SC 597, contending that passing of the arbitrary order of impounding the passport of the Petitioner, by Respondent No.3 would amount to denying the Petitioner his fundamental rights protected under Article 19 of the Constitution of India, and denies him his personal liberty to travel abroad. He further relies on the Judgment of the Hon'ble Supreme Court in the case of Satish Chandra Verma Vrs. Union of India and others, reported in 2019 SCC OnLine SC 2048 contending that the right to travel abroad is an important basic human right and denial of this right by the Respondent No.3 by virtue of its arbitrary action, amounts to denial of the Petitioner's fundamental right under Constitution of India. Further, reference to a Judgment of a Division Bench of this Court dated 07/06/2022 passed in the case of Anurag s/o Padmesh Gupta Vrs. Bank of India and another in Writ Petition No.2826/2022, which reiterates and follows the law laid down by the Hon'ble Apex Court holding

that the right of a Citizen of India to travel abroad, forms part of fundamental right to personal liberty enshrined in Article 21 of the Constitution of India. He further takes us through another Judgment of this Court in the case of **Naresh Lalchand Bhagchandani Vrs. Union of India and others**, reported in **2007 (5) Mh.L.J. 56**, which considers the powers of the authority under the provisions of Section 10 of the Passports Act, 1967 to cancel and impound a passport. While referring to the observations made in this Judgment and the manner in which such powers could be exercised, the learned counsel submitted before us that passing of orders denying a passport or impounding the same, have to be for just and proper reasons and grounds for the same may be within the scope and ambit of the provisions of the said Act.

8. Ms. M. R. Chandurkar, Learned Counsel appearing for Respondent Nos.1 and 3 sought to support the issuance of Show Cause Notice dated 15/07/2022 by the Respondent No.3 and reasons contained in the Surrender Certificate dated 08/08/2022, on the contention that the same was based upon the communication of the Respondent No.2, which informed Respondent No.3 that there was a case registered against the Petitioner and the same was under trial before the District and

Sessions Judge, Nagpur. She further contended that the directions to surrender the petitioner's passport was in accordance with the provisions of GSR 570(E) dated 25/08/1993 issued by the Ministry of External Affairs, which required that a person against whom an offence was alleged to have been committed, would be required under the provisions of the said Government Notification to produce before the Passport Authority an order from the concerned Court permitting the passport holder to depart from India, failing which the concerned officer was within his powers under Section 6 read with Section 10(3)(e) to impound such passport.

Shri S. M. Ghodeswar, learned APP appearing for Respondent No.2 fairly accepted the position that the Petitioner was in fact, not personally implicated in any of the pending criminal cases, and though such information was shown in the system of the Respondent No.2, wherein a note had been put up claiming pendency of the investigation in the aforementioned crime even though the Petitioner was not personally implicated as an accused in any of these investigations or cases.

9. We have considered the submissions made by the learned counsel for the parties and the record of the petition before us.

10. In the case of Satwant Singh Sawhney Vrs. D. Ramarathnam, Assistant Passport Officer, New Delhi and others (supra), the Hon'ble Supreme Court considered, whether refusal to issue a passport to a Citizen of India would amount to denial of the right to travel abroad and thus, infringed the citizens fundamental rights under Articles 19 and 21 of the Constitution of India. Considering this issue, the Hon'ble Supreme Court has considered the right to travel abroad to be a fundamental right and refusal to grant a passport or its withdrawal, would be violative of citizens right to "personal liberty" under Article 21 of the Constitution of India. The Hon'ble Supreme Court has held as under :-

“33. The next question is whether the act of the respondents in refusing to issue the passport infringes the petitioner's fundamental right under Art. 14 of the Constitution. Article 14 says that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. This doctrine of equality before the law is a necessary corollary to the high concept of the rule of law accepted by our Constitution. One of the aspects of rule of law is that every executive action, if it is to operate to the prejudice of any person, must be supported by some legislative authority : See State of Madhya Pradesh v. Thakur Bharat Singh, C.A. No.1066 of 1965, D/-23-1-1967 : (AIR 1967 SC 1170). Secondly, such a

law would be void, if it discriminates or enables an authority to discriminate between persons without just classification. What a Legislature could not do, the executive could not obviously do. But in the present case the executive claims a right to issue a passport at its discretion: that is to say, it can at its discretion prevent a person from leaving India on foreign travel. Whether the right to travel is part of personal liberty or not within the meaning of Art. 21 of the Constitution, such an arbitrary prevention of a person from travelling abroad will certainly affect him prejudicially. A person may like to go abroad for many reasons. He may like to see the world, to study abroad, to undergo medical treatment that is not available in our country, to collaborate in scientific research, to develop his mental horizon in different fields and such others. An executive arbitrariness can prevent one from doing so and permit another to travel merely for pleasure. While in the case of enacted law one knows where he stands, in the case of unchannelled arbitrary discretion, discrimination is writ large on the face of it. Such a discretion patently violates the doctrine of equality, for the difference in the treatment of persons rests solely on the arbitrary selection of the executive. The argument that the said discretionary power of the State is a political or a diplomatic one does not make it anytheless an executive power. We, therefore, hold that the order refusing to issue the passport to the petitioner offends Art. 14 of the Constitution.”

11. In the case of Smt.Maneka Gandhi Vrs. Union of India and another (supra), while considering the powers of the Passport Officer under Section 10(3) of the Passports Act, 1967 the Supreme Court has reiterated that the right to go abroad is part of “Personal Liberty” within the meaning of that expression as used in Article 21 of the Constitution of India. In this case, the Hon'ble Supreme Court, in Para No.62 and Para No. 81-B held as under :-

“62. Now, here, the power conferred on the Passport Authority is to impound a passport and the consequence of impounding a passport would be to impair the constitutional right of the holder of the passport to go abroad during the time that the passport is impounded. Moreover, a passport can be impounded by the Passport Authority only on certain specified grounds set out in sub-sec.(3) of S.10 and the Passport Authority would have to apply its mind to the facts and circumstances of a given case and decide whether any of the specified grounds exists which would justify impounding of the passport. The Passport Authority is also required by sub-sec. (5) of S. 10 to record in writing a brief statement of the reasons for making an order impounding a passport and, save in certain exceptional situations, the Passport Authority is obliged to furnish a copy of the statement of reasons to the holder of the passport. Where the Passport Authority which has impounded a passport is other than the

Central Government, a right of appeal against the order impounding the passport is given by S.11 and in the appeal, the validity of the reasons given by the Passport Authority for impounding the passport can be canvassed before the Appellate Authority for impounding the passport can be canvassed before the Appellate Authority. It is clear on a consideration of these circumstances that the test laid down in the decisions of this Court for distinguishing between a quasi-judicial power and an administrative power is satisfied and the power conferred on the Passport Authority to impound a passport is quasi-judicial power. The rules of natural justice would, in the circumstances, be applicable in the exercise of the power of impounding a passport even on the orthodox view which prevailed prior to A. K. Kraipak's case (AIR 1970 SC 150). The same result must follow in view of the decision in A. K. Kraipak's case, even if the power to impound a passport were regarded as administrative in character, because it seriously interferes with the constitutional right of the holder of the passport to go abroad and entails adverse civil consequences.

“81-B. The direct and inevitable effect of an order impounding a passport may, in a given case, be to abridge or take away freedom of speech and expression or the right to carry on a profession and where such is the case, the order would be invalid,

unless saved by Article 19(2) or Art.19(6).Take for example, a pilot with international flying licence. International flying is his profession and if his passport is impounded, it would directly interfere with his right to carry on his profession and unless the order can be justified on the ground of public interest under Art. 19(6), it would be void as offending Article 19 (1) (g). Another example may be taken of an evangelist who has made it a mission of his life to preach his faith to people all over the world and for that purpose, set up institutions in different countries. If an order is made impounding his passport, it would directly affect his freedom of speech and expression and the challenge to the validity of the order under, Art. 19 (1) (a) would be unanswerable unless it is saved by Art. 19(2). We have taken these two examples only by way of illustrations. There may be many such cases where the restriction imposed is apparently only on the right to go abroad but the direct and inevitable consequence is to interfere with the freedom of speech and expression or the right to carry on a profession. A musician may want to go abroad to sing, a dancer to dance, a visiting professor to teach and a scholar to participate in a conference or seminar. If in such a case his passport is denied or impounded, it would directly interfere with his freedom of speech and expression. If a correspondent of a newspaper is given a foreign assignment and he is refused passport or his passport is impounded. it would be direct interference with his freedom to carry on his profession.”

12. In the case of Anurag s/o Padmesh Gupta Vrs. Bank of India and another (supra), a Division Bench of this Court has considered the validity of an order of the Debts Recovery Tribunal constituted under the provisions of Recovery Debts Due to Banks and Financial Institutions Act, 1993, whereby the Tribunal restrained the petitioner in that proceeding from travelling abroad. While examining the legality of the order in relation to the citizens Right to Liberty under the Constitution of India, this Court in Para Nos.27 and 28 has held :-

“27. On consideration of the scheme of the said Act, we hold that the order refusing permission to travel abroad has been made in contravention of the provisions of Article 21 of the Constitution and is violative of the right guaranteed to the petitioner under Article 21. The State has not made any law or provision in the said Act seeking to deprive or regulate the right of a person to travel abroad. The order is, therefore, liable to be set aside.

28. Before parting with the case, we would like to say that we were not unmindful of the necessity of regulating the issue of recovery of public money. On the other hand, we are fully conscious that in certain cases, it may be necessary for the interests of the country and the public interest to prevent certain persons from

leaving India. In **Satwant Singh Sawhney v. D. Ramarathnam** reported in (1967) 3 SCR 525, the Constitution Bench of the Apex Court held that right to travel abroad was a part of "personal liberty" and, as such, a fundamental right guaranteed by Article 21 of the Constitution. Therefore, it could be regulated only "according to procedure established by law" thereunder and not by mere executive discretion. Further, the exercise of executive discretion was also violative of Article 14 of the Constitution. Parliament thereupon enacted the Passports Act, 1967 to establish the procedure under which passports may be granted or refused to applicants by the Central Government. As we have already pointed out, for the purpose of depriving or regulating the right of a person to travel abroad, it is necessary to have a procedure established by law enacted by a competent Legislature in the said act or by way of independent legislation which is absent herein."

13. In the case of **Satish Chandra Verma Vrs. Union of India and others** (supra), while considering an order of denial of permission to a citizen by the Central Administrative Tribunal, for a private foreign visit, the Hon'ble Supreme Court observed thus :-

“5. The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also

extends to private life; marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right. (See: Mrs. Maneka Gandhi v. Union of India (1978) 1 SCC 248). In the said judgment, there is a reference to the words of Justice Douglas in Kent v. Dulles 357 US 116 (1958) which are as follows:

“Freedom to go abroad has much social value and represents the basic human right of great significance.”

14. In the case of **Naresh Lalchand Bhagchandani Vrs. Union of India and others** (supra), Division Bench of this Court, while considering the legality of order denying a passport to citizen under the provisions of Sections 6 and 10 of the Passports Act, 1967 in Para Nos.7 and 9 has held :-

“7. The provisions which empowered the authorities to take action, as contemplated under section 6 or 10 of the Act, are required to be strictly construed before any action is taken against a passport holder; his acts of omission or violation should essentially fall within the contemplation of the provisions on their strict construction.

9. The above enunciated principle clearly show that there has to be fairness in the action of the Passport authority and the orders denying the passport

have to be for just, proper reasons and such reasons essentially should fall within the ambit and scope of the corresponding provisions of the Act.”

15. The question raised before us is whether the action of Respondent No.3 in directing the Petitioner to surrender his passport purportedly on the ground that it had received adverse inputs on the Respondent No.2 of the pendency of a criminal case against the Petitioner suffers from arbitrariness and is violative of the petitioner’s fundamental rights under Articles 14, 19 and 21 of the Constitution of India.

At the outset, we proceed to examine whether the Show Cause Notice dated 15/07/2022 issued by the Respondent No.3 and the Surrender Certificate issued on 08/08/2022, pursuant to which the Petitioner lodged his passport with the Respondent No.2 was based upon the reasons founded upon correct factual material i.e. whether there was factually a criminal proceeding pending against the Petitioner to justify action under Section 10(3)(d)(e) of the Passports Act, 1967. On going through the record before us, it becomes abundantly clear that, though the Affidavit filed by Shri Harshadkumar Parmar, Passport Officer, Nagpur on behalf of Respondent No.3 states in Para No.4 thereof,

that Loni Police Station, Ahmednagar submitted an Adverse Report stating that "EOW Nagpur Registration No.316/2017 dated 04.02.2017 under Maharashtra Prevention of Defacement Property Act, 1995, Section (s)(8) is registered against him and that the said case is under trial with District Judge-5 and Additional Sessions Judge, Nagpur", there appears to be no factual record of any criminal proceedings, whether under investigation in Crime No.156/2014 or in Application before the Designated Criminal Court, that substantiates this statement. It is an accepted position before us, as candidly admitted by the learned counsel for the Respondents, that the Petitioner has no criminal record or pending criminal proceedings, wherein he has been personally implicated. This being the position, the erroneous factual foundation for issuing Show Cause Notice dated 15/07/2022 and Surrender Certificate under which the Petitioner's passport was surrendered on 08/08/2022 before the Respondent No.3 renders the action of Respondent No.3 in directing the Petitioner to surrender his passport and impounding the same under the provisions of Section 10 of the Passports Act, 1967, arbitrary, violating the Petitioner's fundamental rights under Articles 14 and 21 of the Constitution of India.

16. The provisions of Section 10(3)(d)(e) of the Passports Act, 1967 read thus :-

“Section 10. Variation, impounding and revocation of passports and travel documents.—

(1)

(2)

(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document,—

(a)

(b)

(c)

(d) if the holder of the passport or travel document has, at any time after the issue of the passport or travel document, been convicted by a Court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

(e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a Criminal Court in India;

In the present case, if the Respondent No.3, exercising powers under Section 10(3)(d) and (e), ought to have ascertained whether there were in fact proceedings of the nature referred to in the above provisions of Law. From the record, it is altogether clear that there is no material produced before the Respondent No.3 to substantiate either of the above two situations contemplated by the provisions of Section 10 of the said Act. It is to be further noted that, in the present case, the Petitioner had, by his reply dated 20/07/2022 to the Show Cause Notice even specified that he had not been made accused in Crime No.156/2014, nor was he charged in the said crime or was any case pending against him in his personal capacity. The Respondent Nos.2 and 3, instead of confirming from the records of the criminal cases and the Application filed by the Respondent No.2 before the concerned Court, as to whether the facts averred by the Petitioner in his reply were true, has arrived at a conclusion that there were adverse inputs received from the police in respect of the petitioner, a reason which was factually incorrect.

17. Applying the ratio of the Judgments cited by us above, and giving due regard to the fact that it has been consistently held that denial of the right to travel or denial of travel documents such

as a passport, or impounding a passport on the basis of arbitrary reasoning would infringe upon the fundamental rights of a citizen guaranteed under Articles 19 and 21 of the Constitution of India, and such arbitrary action would be violative of Article 14, we hold and declare that the action on the part of Respondent No.3, Regional Passport Office, Pune in directing the Petitioner to surrender his passport is arbitrary and violative of Article 21 of the Constitution of India. Consequently, we declare that the Petitioner is entitled to the return of his passport No. Z6784605 dated 07/07/2022 and accordingly, we direct Respondent No.3, Regional Passport Officer, Pune to forthwith return the said passport to the petitioner.

18. In the circumstances, we allow the present Petition. Rule is made absolute in terms of Prayer Clauses (A) and (C) which read thus :-

“(A). Hold and declare that the action on the part of the Respondent No.3 – Regional Passport Office, Pune in directing the petitioner to surrender his passport based on an incorrect adverse police verification report, is arbitrary and is violative of Article 21 of the Constitution of India ;

(C). Hold and declare that the petitioner is entitled to return his Passport No.Z6784605 dated 07.07.2022 and further direct the Respondent No.3 – Regional Passport Office, Pune to forthwith return Passport No. Z6784605 dated 07.07.2022 to the petitioner so as to enable him to travel abroad.”

[VALMIKI SA MENEZES, J.]

[MANISH PITALE, J.]

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