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W.A.No.2265 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.A.No.2265 of 2022

Government of India
rep by its Secretary
Ministry of Home Affairs
Major Dhyan Chand National Stadium
India Gate
New Delhi-02

.. Appellant

v.

Pranav Srinivasan
S/o Srinivasan

.. Respondent

Appeal filed under Clause 15 of the Letters Patent, against the order dated 25.03.2022 passed in W.P.No.31272 of 2019.

For Appellant :: Mr.Venkataswamy Babu
Senior Panel Counsel



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JUDGMENT

(Judgment of the Court was made by the Hon'ble Acting Chief Justice)

The Government of India has come to this Court challenging the correctness of the impugned order passed by the learned single Judge dated 25.03.2022 in Writ Petition No.31272 of 2019.

2. The crux of the issue raised by the appellant in this appeal is whether the respondent/writ petitioner, namely, Pranav Srinivasan, Son of Mr.Srinivasan, who was also born on 23.11.1963 at Kancheepuram, Tamil Nadu through his Indian parents, is entitled to get the benefit and protection of Section 8(2) of the Citizenship Act, 1955 to resume Indian citizenship?

3. Learned counsel appearing for the appellant, assailing the correctness of the impugned order, pleaded that when the parents of the respondent/writ petitioner are not the citizens of India, the respondent is not eligible to resume his Indian citizenship, therefore, the provisions of Section 8(2) of the Citizenship Act, 1955 are not applicable to his case. But this



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vital aspect has been completely overlooked in the impugned order, he pleaded.

4. But we do not wish to approve the argument advanced by the learned counsel appearing for the appellant, for the reason that paragraph-3 of the affidavit filed in support of the writ petition shows that the deponent's father Mr.Vaidyanathan, S/o Gopala Iyer, who is the grandfather of the respondent, was born on 16.05.1937 at Nagangudi in Thanjavur District. Again paragraph-4 shows that the deponent's mother Mrs.Lalitha, the grandmother of the respondent, was also born on 15.10.1946 at Panampattu, Villupuram District. Similarly, the respondent's mother Mrs.Gayathri Srinivasan was also born on 05.03.1972 at Tiruppur, Tamil Nadu. In support thereof, photocopies of the first and last page of their passports were also filed. A perusal of the same also would show that not only the parents of the respondent were Indian citizens originally, but also his grandparents. Therefore, the bone of contention made by the learned counsel appearing for the appellant, on the basis of the order dated

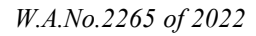


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30.04.2019 passed by the appellant, is factually wrong, thereby the consequential contention made by the learned counsel appearing for the appellant that the respondent is not entitled to get the benefit and protection of Section 8(2) of the Citizenship Act, 1955 is without any merit.

5. It may be mentioned herein that although the parents of the respondent originally were Indian citizens, they renounced such citizenship on 19.12.1998. The respondent was in foetus-7.5 month old and was born on 01.03.1999 in Singapore acquiring citizenship of Singapore by virtue of his birth there. After attaining the age of majority on 01.03.2017, he made a declaration before the Indian Consulate at New York on 05.05.2017 seeking resumption of his Indian citizenship, as per Section 8(2) of the Citizenship Act. The application was also in Form XXV in terms of Rule 24(1) of the Citizenship Rules, 2009, titled as 'Declaration of Intention to Resume Indian Citizenship under Section 8(2) of the Act made by a person who ceased to be an Indian citizen on the loss of Indian Citizenship by his parents in accordance with the provisions of Section 8(1) of the Citizenship Act, 1955.'



"8. Rights of citizenship of certain persons of Indian origin residing outside India.- Notwithstanding anything in Article 5, any person who or either of whose parents or any of whose grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or



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consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India."

A careful perusal of the above Article would show that it gives a complete mechanism to determine the citizenship of persons of Indian origin who reside outside India and also says that anyone whose parents or grandparents were born in India and who are ordinarily residing in any country outside India shall be deemed to be citizens of India, if has been registered as citizens of India by the diplomatic or consular representative of India. In this context, when we look at the case of the respondent, he made the declaration under Section 8(2) on 05.05.2017, but his application was not accepted under Section 8(2). On the contrary, it was intimated that he may apply for citizenship under Section 5(1)(f)/(g) of the Citizenship Act,



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6. However, coming to the issue raised in this appeal, for better appreciation, sub-sections (1) and (2) of Section 8 of the Citizenship Act, 1955, are extracted hereunder:-

"8. Renunciation of citizenship.-(1) If any citizen of India of full age and capacity, makes in the prescribed manner a declaration renouncing his Indian Citizenship, the declaration shall be registered by the prescribed authority; and, upon such registration, that person shall cease to be a citizen of India:

Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.

(2) Where a person ceases to be a citizen of India under sub-section (1), every minor child of that person shall thereupon cease to be a citizen of India:

Provided that any such child may, within one year after attaining full age, make a declaration in



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the prescribed form and manner that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India."

A plain reading of sub-section (1) of Section 8 of the Citizenship Act would show that if any citizen of India makes in the prescribed manner a declaration renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority and upon such registration, that person shall cease to be a citizen of India. Coming to sub-section (2), it says that where a person ceases to be a citizen of India under sub-section (1), every minor child of that person shall thereupon cease to be a citizen of India, provided that such child may, within one year after attaining full age, make a declaration in the prescribed form and manner that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India.

7. In the present case, admittedly, the respondent's grandparents, namely, Mr.Vaidyanathan, S/o Gopala Iyer, who was born on 16.05.1937 at



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Nagangudi in Thanjavur District and Mrs.Lalitha, who was born on 15.10.1946 at Panampattu, Villupuram District, were Indian citizens. Even though the parents of the respondent were also Indian citizens originally, they migrated to Singapore renouncing their Indian citizenship. That does not mean that the children born to them will also be bound to lose their Indian citizenship. Since sub-section (2) of Section 8 of the Citizenship Act, which has been highlighted above, clearly shows that even if the parents have renounced their Indian citizenship after settling down in a foreign country, the children born to them, on attaining 18 years of age, can choose to resume the Indian citizenship, within one year, by making a declaration in the prescribed form and manner before the prescribed authority. Since the respondent has admittedly made the declaration in the prescribed form within one year of his attaining majority, the same has been rightly appreciated and held in favour of the respondent/writ petitioner by the learned single Judge. Therefore, we do not find any merit in this writ appeal. Accordingly, the writ appeal fails and it is dismissed. Consequently, C.M.P.No.17257 of 2022 is also dismissed.



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Speaking/Non speaking order

(T.R.,A.C.J.) (D.K.K.,J.)

Index : yes/no

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SS

To

1. The Secretary to Government of India
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