

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-13636-2022

Date of decision:30.08.2022

Gurmeet Singh Bains

....Petitioner

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Dr. Sumati Jund, Advocate,
for the petitioner.

Mr. Satya Pal Jain, Addl. Solicitor General of India
with Ms. Shweta Nahata, Advocate,
for respondents No.1 to 3.

Mr. Dipesh Jain, Advocate &
Ms. Sukhmani Patwalia, Advocate,
for Mr. Akshay Jain, Addl. Standing Council
for respondent No.4.

VINOD S. BHARDWAJ. J. (ORAL)

The question that arises for consideration in the present petition is as to whether High Court in exercise of powers under Article 226 of the Constitution of India 1950 can issue any writ to a foreign embassy/High Commission in India and direct them to withdraw their orders pending citizenship application of their citizen with the Government of India.

2. Briefly summarized the grievance of the petitioner, who is a citizen of Kenya, is that during the pendency of his application for grant of Indian Citizenship, validity of his Visa and Passport issued by the

Government of Kenya has come to an end. He is now being asked by the Kenya High Commission to go back and seek issuance of a new passport. The petitioner contends that such a condition is bad and that at the time when he applied, he possessed all valid documents and that he has been prejudiced due to delay at the level of Government of India in approving his application for grant of citizenship. His hardship cannot now be compounded by asking him to go back to Kenya and seeking a fresh passport for considering his eligibility.

3. The instant writ petition seeks issuance of a writ, order or direction especially in the nature of mandamus directing the Ministry of Home Affairs to process his application for grant of citizenship under Section 5(1)(a) of The Citizenship Act, 1955 on an immediate basis as the same has been pending with the respondents since 12.07.2021 and during its pendency, the stay Visa granted to the petitioner by the office of respondent No.2 has expired on 22.05.2022 and seeks for its further extension due to which, he has been directed by the office of respondent No.2 to travel to Kenya physically to get the National I.D Card and new Biometric Passport of Kenya. A further prayer has been made that the respondent No.2 i.e. Kenya High Commission be directed to extend the stay visa granted to the petitioner by making alternative arrangements.

4. The facts culled out in the instant petition are that the petitioner, who is a citizen of Kenya, is residing in India since 06.08.2010 along with his wife and daughters (Indian citizens) on stay Visa granted by the Office of Bureau of Immigration which was last extended upto 22.05.2022. The petitioner submitted his application for registration as a citizen of India under Section 5(1) (a) of the Citizenship Act, 1955 (hereafter referred to the 'Act of

1955') to the Office of Deputy Commissioner, UT, Chandigarh on 12.07.2021 vide M.H.A file No.2021010721. The petitioner was telephonically summoned by the office of Foreigners Registration on 07.09.2021 for holding of a formal interview. The petitioner claims to have duly appeared before the said office and submitted the requisite documents on 10.09.2021.

5. The petitioner was thereafter served with a notice on 08.10.2021 directing the petitioner to appear before the Deputy Commissioner, UT, Chandigarh for taking Oath of Allegiance as a citizen of India which is claimed to have been duly complied with on 11.10.2021. Intimation was thereafter received by the petitioner on 02.12.2021 that the application for grant of citizenship has been received by the Government of India from the Office of District Collector. However, despite wait for a prolonged period of time in violation of the time-lines mandated under Rule 12 of the Citizenship Rules 2009, the application for grant of citizenship has not yet been approved. The said Visa of the petitioner was to expire on 22.05.2022. An information was received by the petitioner on 05.05.2022 that his application for Indian Citizenship is still under process with the Ministry of Home Affairs, New Delhi.

6. During the pendency of the aforesaid application, the petitioner was in constant touch with respondent No.2 i.e. High Commission of Kenya for getting his Passport renewed. He was informed vide E-mail dated 12.05.2022 that possession of Kenyan National ID card is the mandatory requirement for renewal of the passport and that he is required to travel to Kenya and to apply for getting the National ID card after appearing there in person and to get the renewed biometric Passport. The e-mails exchanged

between the petitioner and respondent No.2 have also been collectively appended along with the present petition as Annexure P-9.

7. Aggrieved by the said information, the present petition has been filed.

8. Short reply by way of affidavit on behalf of respondents No.1 and 3 has been filed wherein it was stated by the Foreigners Regional Registration Officer that the application of the petitioner was pending consideration and that the valid travel document i.e., Passport of the petitioner has since then expired. As per the standard operating procedure, an applicant must be in possession of valid travel documents as well as a valid Passport which is necessary to identify the nationality and immigration record of the foreigner applying for citizenship in India. As the petitioner had voluntarily given up his Indian Citizenship and had acquired citizenship of Kenya, hence, he is governed by the rules pertaining to foreigners and it is essential for him to get his Passport renewed before the application can be processed any further. In the absence of any such valid and legal travel documents as well as proof of identity, the status of the petitioner would be deemed as an unlawful immigration as per the Foreigners Act, 1946. It is also pointed out that the petitioner is required to approach the High Commission of Kenya for issuance of emergency travel documents to enable him to travel back to Kenya along with a permit so as to bring the new Kenyan passport for identifying nationality of the petitioner and for processing his application for grant of Indian citizenship.

9. Learned counsel appearing on behalf of the petitioner has vehemently argued that his citizenship application was required to be forwarded in a time bound manner under Rule 12 of the Citizenship Rules,

2009 and that the present situation has occurred as a result of delay in finalization of the citizenship application of the petitioner. He submits that the petitioner cannot be called upon to seek renewal of his passport by physically going to Kenya and obtaining a fresh passport.

10. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended along with the present petition. The dispute that arises for consideration has following dimensions:-

11. Firstly, as regards the delay in the determination of the application for citizenship and the effect of the time-lines provided under Rule 12 of the Citizenship Rules, 2009;

12. It is not in dispute that the petitioner is a foreign national and is not a citizen of India and that he had applied for the citizenship of India under Section 5 of the Citizenship Act, 1955. Rule 12 of the Citizenship Rules, 2009 provides for time-line for processing of an application. The said Rule however does not automatically confer any indefatigable right in favour of an applicant to be granted citizenship by default. It is also evident that the requisite statutory forms mandate various details including the detail relating to the valid travel documents i.e. passport and visa. It is specifically prescribed in the statutory forms that the documents required to be attached with an application must include a valid foreign passport along with a valid travel document. The statutory requirement cannot be dispensed away solely on the ground that at the time when such an application was submitted, the petitioner was in possession of a valid passport. The applicant is required to remain in possession of all necessary statutory requirements till the date of consideration and adjudication on the application for citizenship submitted

by a person. The aforesaid aspect is also crystallized in the standard operating procedure formulated by the Union of India. Relevant extract of the reply filed by way of affidavit on behalf of respondents No.1 and 3 in this regard is reproduced as under:-

"3. That the petitioner submitted an application for Indian Citizenship dated 12.07.2021 while holding an expired Kenya Passport (valid upto 01.07.2021) being kept on hold by the respondent No.1 due to the deficiency of provisioning of valid Kenyan Passport. It is further submitted that as per the Standard Operating Procedure, for obtaining Indian Citizenship, a copy of valid passport is necessary to identify the foreigner with regard to the Nationality and Immigration records. Since the petitioner is of Indian origin, post acquisition of foreign nationality, the Indian Nationality ceases automatically and all the rules pertaining to foreigners are applicable.

4. That it is relevant to mention here that all the foreigners are governed by the following Acts:

(a) The Passport (Entry into India) Act, 1920

(b) The Registration of Foreigners Act, 1939

(c) Foreigners Act, 1946

(d) The Citizenship Act, 1955

6. That as per Citizenship Amendment Act, 2003, a foreigner is to be treated as an illegal immigrant in India who has entered India either without valid documents or who initially had valid documents, but has overstayed beyond the permitted time i.e. not held a valid identification, such persons are not eligible for citizenship by registration or naturalization.

7. That also as per Foreigners Act, 1946, persons in India without either a valid Indian citizenship or a visa are considered by the central government as illegal and unlawful immigrants. The Foreigners Act empowers the

Indian administration to detain a person until he/she is deported back to his/her own country.

8. That according to Indian Citizenship Act, 1955, Article 9 of Indian Constitution says that a person who voluntarily acquires citizenship of any other country is no longer an Indian citizen.

9. That it is pertinent to mention here that the petitioner was granted stay Visa on 05.05.2021 on the then valid Kenyan Passport (A1672771) and the petitioner did not get the Kenyan Passport renewed and is thus staying illegally in India.

10. That as per the extant procedure, the petitioner is required to apply to respondent No. 2 for issuance of Emergency Travel Document in order to enable the petitioner to travel back to Kenya along with an Exit. Permit from respondent No.3 to bring the requisites for issuance of a new Kenyan Passport from respondent No.2 for the purpose of identifying the nationality of the petitioner and processing the application of the petitioner for Indian Citizenship.

11. That it is difficult to hold dual citizenship of India and another country, due to the provisions of loss of Indian nationality when an Indian national naturalizes in another country. The purpose of Indian visa/OCI card to the person of Indian origin holding foreign nationality will be defeated if all the persons of Indian origin after acquiring foreign nationality claim to have Indian citizenship as their own.

13. Rule 12 of the Citizenship Rules 2009 is reproduced here-in-after below:-

“Rule 12. Forwarding of applications to Central Government.- (1) The Collector shall forward every application received by him under clauses (a), (c), (d), (e), (f) and (g) of sub-section (1) of section 5 or sub-

section (1) of section 6 to the State Government or the Union territory Administration, as the case may be, within a period of sixty days from the date of its receipt, along with a report as to whether the applicant-

- (a) satisfies all the conditions laid down in the relevant clauses of section 5 or section 6;*
- (b) has an intention to make India his permanent home;*
- (c) has signed the oath of allegiance as specified in the Second Schedule to the Citizenship Act, 1955; and*
- (d) is of good character and is a fit and proper person to be registered or naturalised, as the case may be, as a citizen of India.*

(2) The State Government or the Union territory Administration, as the case may be, shall forward the application along with its recommendation and the report of the Collector, to the Central Government within a period of thirty days from the date of receipt of the report of the Collector under sub-rule(1):

Provided that if for sufficient reasons, the Collector or the State Government or the Union territory Administration, as the case may be, is unable to forward the application within the period specified in sub-rule (1) or sub-rule (2), the same may be forwarded to the State Government or the Union territory Administration or the Central Government, as the case may be, after the expiry of the period so specified but not exceeding ninety days along with the reasons for delay.

(3) All the applications pending with the Collector or the State Government or the Union Territory Administration, as the case may be, on the date of commencement of these rules shall be dealt with in the manner specified in sub-rules (1) and (2).

(4) If the application is not forwarded by the Collector or the State Government or the Union territory Administration, as the case may be, to the Central Government within a period of ninety days from the date of receipt of the application, the applicant may represent to the Central Government in the Ministry of Home Affairs by enclosing a copy of the acknowledgement issued by the Collector.

(5) The Central Government on receipt of the

representation under sub-rule (4), may take up the matter with the State Government or the Union territory Administration, as the case may be, to expedite its recommendation on the application for grant of citizenship.”

14. A perusal of the same shows that even though certain time-lines are prescribed, however, default of the same does not give rise to any legal fiction or a deemed approval. The said timelines, even though mandatorily would, are at best directory in import and application.

15. Legislature is competent to create a legal fiction i.e. to enact a deeming provision for the purpose of assuming existence of a fact that does not exist. No such default right has been created by legislature. It cannot thus be interpreted by this Court in exercise of its writ jurisdiction to create such a fiction. Such an exercise would rather manifest as an act of legislature and not judicial interpretation.

16. Second question that arises for consideration is regarding the conditions of being in possession of valid travel documents viz. Passport and Visa for consideration of the application.

17. In so far the question of being in possession of valid travel documents i.e. Passport and Visa for consideration of the application for grant of citizenship is concerned, it is evident from the reply of respondent-Union of India that the petitioner was not in possession of a valid Passport even on the date when he submitted the application for grant of Indian Citizenship. As per the response filed by the Union of India, the application for seeking Indian Citizenship was submitted by the petitioner on 12.07.2021 whereas his Kenyan Passport was valid upto 01.07.2021. It cannot thus be said that the petitioner fulfilled the eligibility conditions prescribed under the

statutory Rules and incorporated in the statutory forms appended along with the Rules. Even otherwise, the necessity for prescribing the pre-requisites for grant of Indian citizenship is upto the Government of India and once valid travel documents are prescribed for processing, consideration and grant of the citizenship, such a condition cannot be said to be without any legitimate basis. Even otherwise, the petitioner not being a citizen of India cannot raise a challenge to the governing laws. The rights available to every person are those prescribed under Article 21 of the Constitution of India, 1950 and citizenship is not amongst such rights. The petitioner was fully aware of the requirements of the law even at the time of submission of the application and that mere delay in the final determination of the application has not given rise to any prejudice.

18. The necessity for being in possession of valid documents is to ascertain the nationality and antecedents of an applicant. It would be open to Union of India to determine the said aspect before granting its citizenship to any person. People who are illegally residing in the country cannot claim a right to accrue in their favour only by virtue of long stay. Instead, the Government would be even within its rights to repatriate such persons. No person can capitalize on such delay and claim that valid travel documents would not be necessary or serve no purpose.

19. A foreign national cannot automatically be deemed to be an Indian citizen without complying with the procedure prescribed by law. The Part II of the Constitution of India 1950 and the Citizenship Act 1955 are an exhaustive Code regarding citizenship in India as held by the Hon'ble Supreme Court in the matter of *State Trading Corporation of India Ltd. Versus CTO and others reported as AIR 1963 Supreme Court 1811.*

Consequently, a foreigner has no fundamental right or much less a right to register himself as an Indian Citizen. It, therefore, would not be open to such foreign national to raise any challenge to the procedures prescribed by the Government of India for grant of citizenship since such person does not acquire any fundamental or statutory right to claim being conferred with the citizenship of the country. The High Court of Madras has held in the matter of *David John Hawkins Versus Union of India and Another reported as AIR 1996 Madras 314* that no foreign national can have a fundamental right or much less a right to register himself as Indian citizen and hence, such a person cannot challenge the provisions of an enactment as ultra vires of the Constitution of India 1950. Furthermore, it was held by the Kerala High Court in the matter of *Ummayu Versus Union of India reported as 1987 Volume II KLT Page 2271* that a foreigner, simply because he has made an application for registration of citizenship, has no right to stay in India till the disposal of his application. Moreover, the Hon'ble Supreme Court of India has held in the matter of *Hans Muller of Nuremburg Versus Superintendent, Presidency Jail reported as AIR 1955 SC 367* that foreigners have no right to claim Indian citizenship or to stay in India as a matter of right. The Government has an unfettered right to expel a foreigner. Any decision taken by the authorities regarding the citizenship of an individual is subject to revisional jurisdiction of the Central Government under Section 15 of the Citizenship Act 1955. The Hon'ble Supreme Court was seized of the powers of the High Court under Article 226 of the Constitution of India 1950 regarding the decision of the Central Government in the matter of *State of Andhra Pradesh Versus Abdul Khader reported as AIR 1961 SC 1467*, wherein, it was stated that even though Section 15 of the

Citizenship Act 1955 cannot ouster the jurisdiction of the High Court or the Supreme Court to interfere in a proper case, however, the High Court cannot sit as a Court of Appeal against the decision of the Central Government and question the decision of the Central Government on the merits. It may interfere, where the order is without jurisdiction or is in contravention of the provision of law or the rules of natural justice have been violated in making of the decision.

20. In the aforesaid circumstances, it is evident that the petitioner cannot raise a challenge to the statutory provisions prescribed in necessary requirements for processing the application for citizenship and also the fact that the High Court would not have a jurisdiction to issue any direction to a foreign Republic or to set aside any such rules, regulations or directions issued by a foreign republic.

21. The third aspect is as regards the communication sent by respondent No.2-Kenya High Commission to go to Kenya and get the National I.D. and Passport after submission of his biometric data and the resultant hardship claimed.

22. The same leads to examination of the aspect of the hardship agitated by the petitioner emanating from the condition imposed by the respondent No.2-Kenyan High Commission warranting the petitioner to go back to Kenya and securing his National I.D. and Passport after giving his biometric data. It is not in dispute that the aforesaid communication has been received by the petitioner from respondent No.2 i.e. the High Commission of Kenya. The question which thus primarily comes up for consideration is as to whether it is within the jurisdiction of the writ Court to direct respondent No.2-Kenyan High Commission to act or desist from

acting in any particular manner or even opine on the requirements prescribed by the Republic of Kenya. The same would require this Court to enter into the domain as to whether a writ petition against a foreign authority would be maintainable and as to whether it would be a State and/or instrumentality and agency of the State within the meaning of Article 12 of the Constitution of India, 1950.

23. Article 12 of the Constitution of India, 1950 defines 'State' to include the Government and Parliament of India and the Government and legislature of each of the States and all local and other authorities within the territory of India or under the control of Government of India. The relevant provisions of Article 12 and Article 226 of the Constitution of India, 1950 are extracted hereinafter below:-

Article 12 Definition.—*In this Part, unless the context otherwise requires, “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.*

Article 226. Power of High Courts to issue certain writs.

(1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

24. The provision of Article 12 uses the words 'of India' at three different places. State includes Govt. and Parliament of the State and all local or other authorities within the territory or under the control of Govt. of India. The expression used is not exhaustive and is rather inclusive. Article 226 also uses the word “authority”. The principle of *ejusdem generis* is an interpretative guide for assigning construction to general words or phrases. Accordingly, the “authority” to whom any writ is to be issued must be an “authority” within the territories of India under the control of Government of India. An authority must necessarily be an agency or instrumentality of State to fall within the meaning of Article 12 of the Constitution of India and to be amenable to the writ jurisdiction of High Court under Article 226 of the Constitution of India. However, not all agencies or instrumentalities may be “authority” under Article 12 of the Constitution of India. Certain parameters and tests have been laid by the Hon'ble Supreme court before an agency or instrumentality can be labelled as an “Authority” and be subjected to writ jurisdiction. The High Commission of Kenya thus cannot be said to be an authority of India or under the control of Government of India and amenable to judicial review of High Court. The requirements prescribed by another sovereign nation or their constitutionality, legality or validity cannot be determined by the High Court in exercise of its writ jurisdiction. It would be improper for the High Court to look into the individual hardship pertaining to the requirements prescribed by a foreign nation for its citizens.

25. A Seven bench judgement of the Apex Court in **Pradeep Kumar Biswas Versus Indian Institute of Chemical Biology and others, (2002) 5 SCC 122** has elaborated the tests to determine as to whether an

entity is an instrumentality or agency of the State or not and observed as under:

“We sum up our conclusions as under:

*(1) Simply by holding a legal entity to be an instrumentality or agency of the State it does not necessarily become an authority within the meaning of "other authorities" in Article 12. To be an authority, the entity should have been created by a statute or under a statute and functioning with liability and obligations to the public. Further the statute creating the entity should have vested that entity with power to make law or issue binding directions amounting to law within the meaning of Article 13(2) governing its relationship with other people or the affairs of other people- their rights, duties, liabilities or other legal relations. If created under statute, then there must exist some other statute conferring on the entity such powers. In either case, it should have been entrusted with such functions as are governmental or closely associated therewith by being of public importance or being fundamental to the life of the people and hence governmental. Such authority would be the State, for, one who enjoys the powers or privileges of the State must also be subjected to limitations and obligations of the State. It is this strong statutory flavour and clear indicia of power-constitutional or statutory, and its potential or capability to act to the detriment of fundamental rights of the people, which makes it an authority; though in a given case, depending on the facts and circumstances, an authority may also be found to be an instrumentality or agency of the State and to that extent they may overlap Tests 1, 2 and 4 in **Ajay Hasia** [**Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722: 1981 SCC (L&S) 258**] enable determination of governmental ownership or control. Tests 3, 5 and 6 are “functional” tests. The propounder of the tests himself has used the words suggesting relevancy of those tests for finding out if an entity was instrumentality or agency of the State. Unfortunately thereafter the tests were*

considered relevant for testing if an authority is the State and this fallacy has occurred because of difference between "instrumentality and agency" of the State and an "authority" having been lost sight of sub silentio, unconsciously and undeliberated. In our opinion, and keeping in view the meaning which "authority" carries, the question whether an entity is an "authority" cannot be answered by applying Ajay Hasia (supra) tests.

(2) The tests laid down in Ajay Hasia case (supra) are relevant for the purpose of determining whether an entity is an instrumentality or agency of the State. Neither all the tests are required to be answered in the positive nor a positive answer to one or two tests would suffice. It will depend upon a combination of one or more of the relevant factors depending upon the essentiality and overwhelming nature of such factors in identifying the real source of governing power, if need be by removing the mask or piercing the veil disguising the entity concerned. When an entity has an independent legal existence, before it is held to be the State, the person alleging it to be so must satisfy the court of brooding presence of the Government or deep and pervasive control of the Government so as to hold it to be an instrumentality or agency of the State."

26. A similar question had also come up before a Division Bench of Delhi High Court in the matter of **Prakash Singh Versus Union of India decided on 27.07.2022 in LPA No.438 of 2022.** While examining the scope of writ of mandamus and as to whether 'Agence France Press' would be amenable to writ jurisdiction or not, the Division Bench of Delhi High Court held that Agence France Press cannot be termed as 'State' under Article 12 of the Constitution of India 1950 and is therefore, not amenable to writ jurisdiction. The said entity is an entity of France and even if such entity has been constituted by an Act of the Parliament of France and is engaged in

the activity of public function, it cannot still be termed as a 'State' under Article 12 of the Constitution of India 1950. The relevant extract of the said judgment reads thus:-

'The Respondent No.2/Agence France Press cannot be termed as a State under Article 12 of the Constitution of India and is, therefore, nor amenable to writ jurisdiction. The Respondent No.2/Agence France press is an entity of France and even if the contention of the Petitioner is taken into account that the said news agency has been constituted by the Act of Parliament of France and is engaged in the activity of public function, it still cannot be termed as a State under Article 12 of the Constitution of India. In any event, the complaint, which is sought to be redressed in the instant appeal, is arising out of the internal working of Respondent No.2/Agence France Press, and the enforceability is not for any public function.'

27. Counsel for the petitioner has submitted that a very harsh and onerous condition has been put by respondent No.2 i.e. High Commission of Kenya and the petitioner has been asked to acquire a new passport after being physically present in Kenya for seeking renewal of passport and citizenship proof only to be given up.

28. The aforesaid grievance of the petitioner cannot be redressed by this Court in its power of judicial review and it would be open to the petitioner to raise an appropriate grievance before the authorities of the country of which the petitioner is the citizen.

29. Resultantly, in view of the pre-requisite condition contained in the statutory framework necessitating an applicant to be in India on valid travel documents for his citizenship application to be processed, it does not

seem possible at this juncture to direct respondent-authorities to process the application despite not complying with the necessary requirements prescribed under the regulations.

30. Considering the facts and position in law noticed above, no such *interim* relief can be extended to the petitioner in either directing the respondent No.2-High Commission of Kenya to withdraw its communication sent to the petitioner or to direct the said High Commission to make available all such necessary valid travel documents in India. Besides, since the petitioner is not able to furnish the requisite travel documents as per the statutory compliance prescribed by the Government of India, no direction can be issued by this Court that the citizenship application of the petitioner ought to be processed and considered despite requisite documents not being submitted by the petitioner. There is also no challenge to the requisite statutory provisions and as such, there is no occasion for this Court to examine the constitutionality of prescribing such conditions.

31. The present writ petition is accordingly dismissed, at this stage.

(VINOD S. BHARDWAJ)
JUDGE

30.08.2022
Amandeep/seema

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No