

AD-21
Ct No.09
24.08.2023
TN

WPA No. 5795 of 2023

Nayan Biswas and another
Vs.
The Union of India and another

Mr. Gunjan @ Kanishk Sinha
.... for the petitioners

Ms. Susmita Saha Dutta
.... for the respondents

Learned counsel for the petitioners submits that the petitioner no.1 is a Bangladeshi national and married petitioner no.2, who is an Indian citizen. It is submitted that the petitioner no.1 has accrued certain rights under the Citizenship Act, by virtue of such marriage and residence in India. On a previous occasion, the petitioner no.1's passport was impounded. Upon the petitioner having given a representation in that regard, it was not considered, upon which the petitioner no.1 approached this court, whereupon the court, vide order dated June 17, 2022, directed the respondent-authorities to consider and dispose of the representation of the petitioner no.1 as expeditiously as possible. However, such disposal met with a further rejection.

Subsequently, the petitioner no.1's passport expired in due course and the petitioner applied for a renewal, alternatively issuance of a fresh passport.

Learned counsel for the petitioners places reliance on Section 20 of the Passports Act, 1967 (for short "the 1967 Act") and submits that under certain circumstances, the Central Government may issue a passport to a person who is not a citizen of India.

In the circumstances, since the petitioner no.1 is residing with his wife and two children but has to travel abroad for work, learned counsel submits that the court may take a sympathetic view in directing the authorities to reconsider the issue.

Learned counsel for the petitioners also relies on Annexure-P6 at page-26 of the writ petition, which is purportedly a printout of an e-mail by the Passport Authority asking the petitioner to schedule an appointment for meeting the said authorities.

Learned counsel appearing for the respondent-authorities refutes the contention of the petitioners and submits that the petitioner no.1 is not entitled to issuance of a fresh passport. In any event, in view of the previous passport of the petitioner no.1 having been impounded and there being no change of circumstance thereafter, the present application ought to be refused.

Upon considering the submissions of the petitioners and perusal of the materials on record, it is reflected from the order dated June 17, 2022, that there was a previous occasion of the passport of the petitioner no.1 being impounded, upon which a reconsideration of the petitioner no.1's representation was directed by the court.

Such reconsideration, however, also met with a rejection and the order of the passport authorities dated July 14, 2022 is also annexed to the writ petition.

It was specifically observed by the passport authorities in Clause 10 of the said order that the Show Cause reply shows that the petitioner no.1 is neither an Indian citizen by birth nor as on date citizen by Registration. On such ground, the impoundment of the passport was sustained.

I do not find anything from the records to show any change of circumstances to justify the request of the petitioner no.1 for reconsideration on such issue. In view of the previous impoundment of the passport of the petitioner no.1 on valid grounds, a recall of the said order cannot be carried out in the garb of the present writ petition.

Insofar as the purported e-mail of the authorities is concerned, even if the same is

authentic, it merely advises the petitioner no.1 to schedule an appointment with the passport authorities and to meet them with all original documents for “necessary action”. Nothing in the said e-mail confers any right on the petitioner no.1, which the petitioner no.1 does not otherwise have in law. The petitioner no.1 has not disclosed anything to show that the conditions as prevalent on the date of the last refusal of grant of passport by way of affirming the order of impoundment were subsequently satisfied by him or the circumstances have changed in any manner insofar as the relevant grounds of issuing a passport to the petitioner no.1 is concerned.

Section 20 of the 1967 Act, in any event, does not confer any right on the petitioner at all, since the petitioner no. 1 comes with a private dispute, whereas the said section confers on the Central Government power to issue or cause to be issued passport or travel document to a non-citizen of India only if the Government is of the opinion that it is necessary so to do in the “public interest”, which is not the present case.

In such view of the matter, this court is not inclined to issue a direction to consider the

representation, where there is no law to support such representation at all.

Hence, WPA No. 5795 of 2023 is dismissed, without any order as to costs.

Nothing in this order shall prevent the petitioner no.1 from approaching the passport authorities for issuance of a fresh passport subsequently, in the event there is any germane change of circumstances due to which the petitioner becomes entitled in law to obtain a passport.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)