

4th July,
2023
(AK)
28

W.P.A 12800 of 2023

Amarthya Sikdaar and another
Vs.
Foreign Regional and Registration Offices (FRRO) Kolkata
and others

Mr. Arnab Das
Mr. Amritam Mondal
Ms. Akansha Yadav

...for the petitioners.

Mr. K. Dalal

...for the respondent nos.1 to 4.

Mr. Om Narayan Rai
Mr. Piyas Chowdhury

...for the respondent no.5.

Affidavit-of-service filed in court today be kept on
record.

The petitioners argue that, without any prior
warning and in an unwarranted manner, the petitioner
no.1 was made to alight from an aircraft and the
petitioner no.1's passport was stamped with the letters
“CWOP” (cancelled without prejudice).

The petitioners also rely on a photocopy of the said
page of the passport as well as a copy of the boarding
pass with the stamp “off loaded”.

It is argued that the apparent allegation against the
petitioners was that the petitioner no.2-Company, of

which the petitioner no. 1 is a Director, had certain loans with the respondent-Bank which were not cleared.

However, it is contended by learned counsel for the petitioners, by placing reliance on annexure P-1 to the writ petition, that a 'no due' certificate was issued by the respondent-Bank, that is, the Indian Bank on March 28, 2023 and, as such, the said loan could not be a basis of the impugned action of the respondent no.1.

Learned counsel appearing for the Bank reiterates the submissions of learned counsel for the petitioners to the effect that the petitioners have cleared all the due loans with the respondent-Bank in terms of the settlement between the Bank and the petitioner no.2.

Upon hearing learned counsel for the parties, there appears to be no conceivable reason for putting in the stamp 'CWOP' on the passport of the petitioner no.1 and/or de-boarding the petitioner from the plane in any manner whatsoever.

The petitioner no.1, in his rights as a citizen of India and as a corollary to his right to life under Article 21 of the Constitution of India, is entitled to free movement within the country and abroad.

Since the petitioner no.1 had a valid ticket to travel abroad on an aircraft, there was no reason for the respondent no.1 to make the petitioner alight from the

aircraft and/or put the impugned stamp on the passport of the petitioner.

At the most, under certain circumstances, governed by the corresponding guidelines issued by the Government of India, the Immigration Authorities have a right to issue an LOC (Look Out Circular) at the behest of the appropriate authorities of a Bank, upon the satisfaction of the stipulations given in the said guidelines.

However, in the present case, there is nothing to show that the occasion subsists for even issuing an LOC to the petitioners, let alone putting an unwarranted and unsolicited stamp “cancelled without prejudice” on the petitioner’s passport and/or to compel the petitioner no. 1 to leave an aircraft before his journey even begins.

Hence, the impugned action is palpably *de hors* the law and without jurisdiction.

Accordingly, WPA No. 12800 of 2023 is allowed, thereby setting aside the impugned action of the respondent no.1 and directing the respondents not to impede or restrain the petitioner no.1 from leaving the country in any manner whatsoever and to restrict the free movement of the petitioner within and outside India.

The stamp “CWOP” shall be deemed to be quashed with immediate effect.

The respondent no.1 shall, if necessary, in cooperation with the appropriate authorities, arrange the issuance of a fresh passport or a clear indication in writing as regards the said stamp (CWOP) being ineffective.

Such exercise shall be completed by the respondent no.1 within a fortnight from date.

It is made clear that the respondent no.1 shall not repeat such futile exercise in future without any basis and *de hors* any authority.

There will be no order as to costs.

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.)