

27.07.2023
Item No.18
gd/ssd

MAT/1096/2023
IA NO: CAN/1/2023
SYED EJAZ HASSAN @ SYED EZAZ HASSAN
VS
STATE OF WEST BENGAL AND ORS.

Syed Julfikar Ali

...for the Appellant.

Mr. Asish Guha,
Mr. Aniruddha Sen

... for the State.

1. This intra court appeal filed by the writ petitioner is directed against the order dated 16.05.2023 in WPA 7309 of 2023.

2. By the said writ petition the petitioner challenged the proceedings issued by the Regional Passport Officer, Kolkata dated 2nd March, 2020.

3. This relates to certain clarification required from the appellant with regard to the issuance of his fresh passport. In the said communication of the Regional Passport Officer dated 2nd March, 2020 it is alleged that an adverse entry has been made in the police verification report stating that the appellant is involved in a criminal case vide Hastings PS Case No.63 dated 04.03.1995 under Sections 399/402 IPC and the matter is subjudice before the learned court. According to the appellant, he had been discharged from the criminal case. However, the appellant does not have

any record to substantiate his statement. Therefore, to that extent the Regional Passport Officer is justified in placing the onus on the appellant to establish that he was discharged from the criminal case. However, one other very important fact which has to be taken note of is the fact that passport was issued to the appellant on 05.01.1994. It was further renewed on 15.04.1999. Thereafter the passport was further renewed on 12.02.2001 and lastly renewed on 01.01.2004 till 31.12.2013. Thus, from 1994 till 31.12.2013 the appellant was holding a valid passport. According to the police, if a case had been registered in the year 1995, nothing prevented the Regional Passport Authority to withhold the passport or to refuse renewal when an application had been made. According to the appellant, the records are not available in the concerned court on account of bifurcation of jurisdiction. When the appellant had represented to the police authorities, they sent a reply on 24.03.2023 from which it is seen that the police authorities have virtually stated that they have no records on their file and they have been directed to approach the OC Hastings.

4. Thus, considering the peculiar facts and circumstances of the case, we are of the view that refusal to issue passport to the appellant is not sustainable. However, such issuance of passport

should be subject to the outcome of the criminal case, if it is still pending.

5. In the meantime, if the appellant is able to secure the copy of the order of discharge, it will be well open to the appellant to produce the same before the Regional Passport Officer. However, for such reason, a person, who had been holding valid passport, should not be denied issuance of passport after its expiry in the year 2013.

6. For the above reasons, the appeal is allowed. The order passed by the learned Single Bench is set aside and the respondent, Regional Passport Officer is directed to issue fresh passport to the appellant subject to compliance of the relevant conditions and such issuance of fresh passport shall be subject to the outcome of the criminal case alleged to be pending and if it is still pending in the file of the concerned court which is not to the knowledge of the police who registered the case against the appellant. The application stands disposed of accordingly.

7. The above direction be complied with within a period of 15 days from the date of receipt of the server copy of this order.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)