

WPO/1499/2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MUBBASSHIR AHMED SIDDIQUE
VS
THE REGIONAL PASSPORT OFFICER & ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 14th August, 2023.

Mr. Tarique Quasimuddin
with Mrs. Zainab Tahur, Advs.
... for the petitioner.

Mr. Ashok Kr. Chakraborty, A.S.G.
with Mr. Kumar Jyoti Tewari, Advs.
... for the respondent no.1.

Mr. Debjit Mukherjee, Adv.
... for the State.

The Court: The petitioner contends that the petitioner had obtained an order from the Criminal Court, where a criminal proceeding is continuing against the petitioner, for the purpose of issuance of a passport in favour of the petitioner.

Subsequently, the petitioner, during the subsistence of the tenure of the passport, has got several lucrative offers from foreign universities to pursue the petitioner's higher studies. The petitioner applied for an extension of the validity of the passport and approached the Passport Authority. The Passport Authority cited a

notification which apparently requires the petitioner to obtain a valid order from the Criminal Court where the criminal proceeding is pending against the petitioner and in the event the order of the Court does not stipulate the time limit, the validity of the passport shall be deemed to be one year.

It is submitted on behalf of the petitioner that necessary direction be given on the respondent authorities to ensure that the academic career of the petitioner is not hampered.

Heard learned Counsel for the parties, including the learned Additional Solicitor General and the State.

From a perusal of the concerned Notification dated August 25, 1993 [G.S.R. 570(E)], it is clear that in cases where a criminal proceeding is pending against the applicant for passport, the applicant has to produce an order of the Criminal Court where the proceedings is pending. In Clause (a), sub-clause (i), it is stipulated that the passport to be issued to every such citizen shall be issued for the period specified in the order of the Court, if the Court specifies a period for which the passport has to be issued. However, in sub-clause (ii), it is stipulated that if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year.

The said clause is applicable in the present case. Since the Criminal Court, where the criminal proceeding is pending against the petitioner, did not stipulate a time limit for the passport to be issued, the petitioner should approach the said Court for modification of the order or a fresh order granting leave for the passport to be issued for a period necessary for his studies abroad.

Hence, no irregularity can be found in the refusal of the Passport Authority to extend the validity of the passport of the petitioner by citing the Notification-in-question.

In view of the above observations, the writ petition, being WPO/1499/2023, is disposed of by granting liberty to the petitioner to approach the concerned criminal court, where the criminal proceeding is pending against the petitioner at present, either to seek a clarification/modification of its previous 'no objection' by extending the period for which passport is to be issued to the petitioner, or to obtain a fresh order from the said criminal court for issuance of the passport to the petitioner covering the period during which the petitioner shall pursue his studies abroad.

If such an application is made, the criminal court shall decide the same as expeditiously as possible, positively within 10 days from the date of making the application.

Upon such order being passed by the criminal court, the petitioner shall be at liberty to approach the Passport Authority with a copy of such order and upon such approach being made by the petitioner and an application being made by the petitioner for modification of the said passport, the respondent no. 1, that is, the Regional Passport Officer shall process such application at the earliest and modify the petitioner's passport accordingly, subject to the petitioner otherwise complying with all due formalities.

There will be no order as to costs.

(SABYASACHI BHATTACHARYYA, J.)