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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 WRIT PETITION NO.9122 OF 2023

**VISHAL AMRITLAL BAGDIYA
VERSUS
UNION OF INDIA REPRESENTED BY MINISTER OF
EXTERNAL AFFAIRS AND OTHERS**

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Mr A. P. Bhandari, Advocate h/f Mr A. S. Barlota, Advocate for
Petitioner;
Mr Bhushan Kulkarni, Advocate for Respondents

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 8th August, 2023

PER COURT:

1. Leave to correct the description of Respondent No.2.
Correction be carried out forthwith. Office to accept the original
affidavit-in-reply of the Respondents.
2. The learned Standing Counsel for the Union of India
has tendered a scanned copy of the affidavit-in-reply, dated
07/08/2023, on behalf of the Respondents.
3. We have considered the submissions of the learned
Advocates for the respective parties.

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4. The sole prayer put forth by the Petitioner is, that Respondent No.2, which is the Regional Passport Officer, Passport Authority, Pune, be directed to renew the passport of the Petitioner, bearing No.X7552634 for a period of 10 years.

5. Sections 7, 8 and 9 of the Passports Act, 1967 (for short 'the 1967 Act'), are referred to which read as under :-

“7. Duration of passports and travel documents - A passport or travel document shall, unless revoked earlier, continue in force for such period as may be prescribed and different periods may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class:

Provided that a passport or travel document may be issued for a shorter period than the prescribed period-

(a) if the person by whom it is required so desires; or

(b) if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period.

8. Extention of period of passport - Where a passport is issued for a shorter period than the prescribed period under section 7, such shorter period shall, unless the passport authority for reasons to be recorded in writing otherwise determines, be extendable for a further period (which together with the shorter period shall not exceed the

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prescribed period) and provision of this Act shall apply to such extension as they apply to the issue thereof.

9. Conditions and forms of passports and travel documents - *The conditions subject to which, and the form in which, a passport or travel document shall be issued or renewed shall be such as may be prescribed:*

Provided that different conditions and different forms may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class:

Provided further that a passport or travel document may contain in addition to the prescribed conditions such other conditions as the passport authority may, with the previous approval of the Central Government, impose in any Particular case”

6. The gamut of the contention of the Petitioner is that the Passport Authorities could not have renewed his passport for a period of only one year. The renewed period would be expiring on 26/03/2024.

7. The learned Standing Counsel for the Union of India draws our attention to the Notification issued by the Ministry of External Affairs, dated 25/08/1993, published in the Gazette of India, August 25th 1993, which reads as under :-

“G.S.R. 570(E)--In exercise of powers conferred by clause (a) of section 22 of the Passport Act 1967 (15 of 1967) and

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in suppression of the notification of the Government Of India in the Ministry of External Affairs No. G.S.R. 298(E) dated the 14th April, 1976, the Central Government being in the opinion, that it is necessary in public interest to do so, hereby exempt citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Claus(1) of Sub- section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

(2) The passport to be issued to every such citizen shall be issued----

(i) For the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued or.

(ii) If no period either for the issue of passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year;

(iii) If such order gives such permission to travel abroad for a period less than one year, but does not specify the period validity of passport, the passport shall be issued for one year or,

(iv) If such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time, provided the applicant has not traveled abroad for the period sanctioned by the court and provided further that, in the meantime, the order of the court is not cancelled or modified.

(c) any passport issued in terms of (a)(i) above can be further renewed only on the basis of a fresh court

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order specifying a further period of validity of the passport or specifying the a period for travel abroad; (d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.”

8. The learned Advocate for the Petitioner submits that the said Notification would run counter to Section 7 of the 1967 Act. We would not go into this issue, for the reason that, the Notification is not challenged before us. Secondly, the Petitioner's passport is granted under the order of the Trial Court, dated 21/10/2022, passed below Exh.5 in RCC No.427/2012, by the said Authority. The said passport would expire on 26/03/2024.

9. It is undisputed that, the hurdle in the path of the Petitioner in getting a passport for a period of 10 years is the pending Regular Criminal Case No.427/2012, which is 11 years old. This case seems to be kept in focus by the Passport Authorities while renewing the passport of the Petitioner. When the order dated 20/08/2021, was passed by this Court in Writ Petition No.8452/2021, the Passport Authorities had expressed their willingness/consent before this Court that, they would issue

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a passport for 10 years if the Petitioner approaches the office of the said Respondent.

10. In view of the above, **this petition is disposed off**, with the following observations :-

(a) The issue as regards, whether the Notification dated 25/08/1993 would be counter to Section 7 of the 1967 Act, is left open to be considered in an appropriate case, wherein a challenge to it's legality is posed before us.

(b) The Petitioner would be at liberty to approach the Passport Office for seeking renewal of his passport as per the prescribed procedure, prior to the expiry of the renewed passport, which is upto 26/03/2024.

(c) The Passport Authorities would consider the request of the Petitioner in the light of Sections 7, 8 and 9 of the 1967 Act.

(d) We direct that R.C.C. No.427/2012 shall be decided and concluded, on or before 29/02/2024.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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