

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.1364 OF 2023

Mangal Prabhat Lodha	... Petitioner
V/s.	
Union of India & Ors.	... Respondents

Mr. Amogh Singh with Mr. Jeet Gandhi with Mr. Rahul Arora for the petitioner.

Mr. D.P. Singh for the respondent No.1 and 2.

Ms. M.R. Tidke, APP for the respondent No.3/State.

Mr. Santosh Shevale, PI, Sion Police Station, Mumbai.

CORAM : AMIT BORKAR, J.

DATED : APRIL 25, 2023

P.C.:

1. The challenge in this petition is to the order dated 18th June 2022, passed by learned Metropolitan Magistrate 25th Court, Mazgaon at Sewree, Mumbai in C.C. No.2230/PS/2022 directing Regional Passport Authority to renew the passport of the petitioner for two years.

2. The petitioner has, therefore, challenged the order contending that Rule 12 of the Passport Rules 1980, requires that ordinarily passport shall be granted for period of 10 years. The exercise of such power by the Court restricting period of 10 years

to two years need to be supported by cogent reasons. The nature and gravity of offence alleged against the petitioner may be a relevant fact however in the facts of the case considering nature of offence, i.e., under Sections 141, 143, 148, 149, 269 and 341 of the Indian Penal Code, 1860 and sections 37(3) and 135 of the Maharashtra Police Act, 1951 and status of petitioner, the Court ought to have directed the authority to renew the passport for period of 10 years.

3. The learned advocate for the respondent No.1 submitted that the Magistrate has rightly passed an order directing renewal of passport for period of two years.

4. The Division Bench of this Court in the Case **Narendra K. Ambwani Vs. Union of India and Ors.**, reported in (2014) SCC OnLine Bom 356 while directing the passport Officer to extend validity of passport for period of 10 years issued following directions:

“11. Accordingly we issue following directions:-

(a) In all cases where the Magistrate's court directs renewal of the passports under the Rules, the Passport Rules, 1980 shall apply and passports other than for a child aged more than 15 years shall be renewed for a period of ten years or twenty years as the case may be from the date of its issue. All qualifying applicants are entitled to have passport renewed for atleast ten years. The Regional Passport Office shall renew the passports of such qualifying applicants atleast for ten years.

(b) In case where the passports are valid and the applicants hold valid visas on existing passport, the Regional Passport Officer shall issue the additional booklet to the same passport provided the applicant

had obtained permission to travel abroad.

(c) If the learned Magistrate passes an order making the reference to the said Notification No. G.S.R. 570(E) dated 26th August, 1993, the passport shall be renewed only for such period that the Magistrate may specify in the order or as otherwise specified in the said Notification where the passport of the applicant is valid for less than one year, the additional booklet may be issued subject to the orders to be obtained in this behalf only of the Magistrate concerned.”

5. The learned advocate for the petitioner invited my attention to the judgment in the case of **Captain Amol Kelkar Vs. Union of India** in Criminal Writ Petition No.234 of 2020 decided on 8th March 2021. The Division Bench was considering question as to whether prayer of the petitioner for grant of renewal of his passport by 10 years can be granted or not. Considering the notification dated 25th August 1993 issued in exercise of power under Section 21 A of Passport Act, 1967 the Division Bench of this Court directed the passport authority to renew the passport of the petitioner for period of 10 years. Offence registered against the petitioner was under Section 406, 498 read with Section 34 of Indian Penal Code.

6. Considering the nature of offence registered against the petitioner, in my opinion, the learned Magistrate ought to have assigned reasons as to why period of renewal of passport has been restricted to two years instead of 10 years. The petitioner has stated on oath that the validity of two years passport is causing grave prejudice to the petitioner.

7. Considering the nature of offence registered against the petitioner, the judgment of this Court in the case of **Narendra K. Ambwani** (supra) and **Captain Amol Vasant Kelkar** (supra), the petitioner has made out a case for grant of relief. Hence, following order:

8. The impugned order dated 18th June 2022 is modified to the extent of prayer clauses (b) and (c). The said order is substituted by following order:

9. The respondent No.2 is directed to renew the passport of the petitioner for a period of 10 years, subject to the petitioner satisfying other requirements as per the said Act and the Rules framed thereunder.

10. The writ petition is disposed of in above terms. No costs.

(AMIT BORKAR, J.)