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W.A.No.888 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:18.07.2023

Delivered on: 07.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

AND

**THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**W.A.No.888 of 2015**

**&**

**C.M.P.Nos.1202 and 1203 of 2016,**  
**2583 of 2018 and M.P.No.1 of 2015**

G.Venkatesh

.. Appellant

Vs.

1.Bridge Federation of India  
a Society registered under  
Societies Registration Act, 1860  
through its President  
1-F Ammaiammal Street, Ayyavoo Colony  
Aminjikai, Chennai-600 029

2.Minsitry of youth Affairs and Sports  
Government of India  
through the Secretary, Dept of Sports  
Room No.504-B-Wing Shastri Bhavan  
New Delhi-110001

3.Ministry of Home Affairs  
Government of India, through its Secretary



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North Block, Central Secretariat  
New Delhi-110 001

4. Ministry of Overseas Indian Affairs  
Government of India  
through its Secretary  
Akbar Bhavan, Chanakyapuri  
New Delhi-110021

.. Respondents

Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside the order passed by this Court in W.P.No.2559 of 2011 dated 24.06.2015 10.11.2016.

For Appellant : Mr.G.Rajagopalan, Senior Counsel  
for  
M/s.G.R.Associates

For Respondents : Mr.Srinath Sridevan, Senior Counsel  
for  
Mr.Bhagavath Krishnan for R1  
Mr.Venkatasamy Babu , SPC for R2

### **JUDGMENT**

(Judgment of the Court was made by P.B.BALAJI,J.)

The writ petitioner, aggrieved by the order of Learned Single Judge in W.P.No.2559 of 2011 dated 24.06.2015, has preferred the present writ appeal.



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2. The brief facts that are necessary for deciding the writ appeal are as follows:

1. The appellant an Indian citizen by birth and he completed his entire schooling and education in India. Subsequently he became a citizen of the United States of America in the year 1996. The appellant registered himself as an Overseas Citizen of India under Section 7-A of Citizenship Act, 1955. The appellant further stated that he is a bridge player and that the 1<sup>st</sup> respondent being the Bridge Federation of India, having its Presidential seat at Chennai, with the objects of promoting and developing the sport of bridge in India, conducts national bridge tournaments and also selection trials for finalizing teams to represent the 1<sup>st</sup> respondent in International Bridge Competitions. The letter of the 1<sup>st</sup> respondent dated 23.12.2010 informed him that he would be entitled to play in national championships/tournaments only and he would not be eligible to participate in national selection trials conducted by the 1<sup>st</sup> respondent to select the teams to represent the 1<sup>st</sup> respondent internationally. Two circulars dated 26.12.2008 & 12.03.2009 have been referred in the said letter dated 23.12.2010 to non-suit the appellant. The appellant challenged the said letter dated 23.12.2010 on the grounds that Overseas Citizens of



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India are statutorily recognized by the Parliament and ought to be treated on par with NRIs in different fields including economic, financial and educational fields; the circulars referred by the 1<sup>st</sup> respondent would not apply to the appellant, the decision of the 1<sup>st</sup> respondent has infringed the appellant's legal right and also defeats the statutory notification issued by the Central Government under Section 7-B(1) which was only to advance the main object and purpose of the Citizenship Act itself.

3. The writ petition was heard along with similar writ petitions and in and by a common order dated 24.06.2015, the Writ Court dismissed all the writ petitions. The Writ Petition filed by the appellant that was dismissed is the subject matter of this writ appeal.

4. The appellant has challenged the order of the Learned Single Judge on the grounds that the writ court has not appreciated the mandate of the Section 7-B of the Citizenship Act; the reliance placed on Article-9 of the Constitution of India would not apply to the appellant as his claim was only being an Overseas Citizen; the writ court failed to see that the appellant is entitled to all privileges that are available to a NRI; the



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circulars referred in the impugned letter were not required to be challenged and that the Writ Court failed to appreciate that the appellant was not seeking citizenship, but only a right based on nationality.

5. Pending the Writ Appeal, the appellant filed CMP.No.18499 of 2021, seeking to amend the prayer in the writ petition, in view of the subsequent amendment to the by-laws, effected by the 1<sup>st</sup> respondent. We have already heard the CMP and passed a separate order on 12.07.2023, dismissing the said amendment application as not maintainable. However, we have observed that the appellant if aggrieved by the amendment to the by-laws, would be at liberty to challenge the same, independently.

6. During the course of arguments advanced in the amendment application the learned Senior Counsel appearing for the appellant contended that the original prayer in the writ petition would survive and still be sustainable, despite the amendment to the by-laws and therefore, we decided to hear the writ appeal on the original prayer sought for in the writ petition.



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7. We have heard learned Senior Counsel, Mr.G.Rajagopalan for M/s.G.R.Associates, Counsel for the appellant and Learned Senior Counsel, Mr.Srinath Sridevan, for Mr. Bhagavath Krishnan, Counsel for the 1<sup>st</sup> respondent and Mr.Venkatasamy Babu, Senior Panel Counsel for the 2<sup>nd</sup> respondent. We have also perused all the relevant materials placed before us, including the order of the Learned Single Judge.

8. The main submissions advanced by the Learned Senior Counsel for the appellant are:

1. The notifications issued under Section 7-B are sweeping enough to include the case of the appellant, namely to permit him to participate in selection trials and also participate in International Bridge Tournaments.

2. The impugned communication referring to two circulars would not apply to the case on hand since the appellant was not seeking for any aid or fund and he also did not seek to walk under the Indian flag. According to the Learned Senior



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Counsel, these were the only two grounds on which the impugned letter came to be issued and when both these reasons were of no applicability to the appellant's case, it was not incumbent on the appellant to challenge the two circulars.

3. The provisions of Section 7-B of the Citizenship Act are wide enough to accede to the Petitioner's request, since Section 7-B(2) clearly lists out the various categories where it is impermissible for an Overseas Citizen of India to claim the rights conferred on a citizen of India. Bridge, not being included in the restricted area set out in Section 7-B(2), there was absolutely no statutory or legal impediment to allow the appellant to represent the 1<sup>st</sup> respondent in International Bridge Events.

4. The Appellant seeks only to represent the 1<sup>st</sup> Respondent and not India.



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9. The learned Senior counsel would also take us through the various notifications issued by the Central Government, beginning April 2005, where the Government has set out the rights of the Overseas Citizens of India. He would also fairly state that in supersession of earlier notifications published in the Official Gazette, a consolidated S.O.1050(e) dated 04.03.2021 was notified and strong reliance was placed on Clause-1 and Clause-5 . We deem it fit to extract the said two clauses for easy reference:

*“ Clause 1. “Grant of multiple entry lifelong visa for visiting India for any purpose...*

*:*

*:*

*:*

*Clause 5. In respect of all other economic, financial and educational field not specified in this notification or the rights and privileges not covered by the notification made by the Reserve Bank of India under the Foreign Exchange Management Act, 1999 (42 of 1999), the OCI card holder shall have the same rights and privileges as a foreigner”.*

10. Placing reliance on the above, the learned Senior Counsel for the appellant would contend that when it has been clarified that an Overseas Citizen of India is entitled to grant of multiple entry, that too lifelong visa



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for visiting India for any purpose, his request to participate in Bridge events and represent the 1<sup>st</sup> respondent would clearly be permissible. He would also refer to the 5<sup>th</sup> Clause which we have extracted herein above. However, at the outset we are unable to accept the said arguments of the learned Senior counsel for the following reasons:

i) The argument of the learned Senior Counsel for the appellant that when an Overseas Citizen of India is permitted to visit India for any purpose, it would automatically encompass his visit to also participate in Bridge events cannot be accepted for the simple reason that, if the intention of the Central Government (Ministry of Home Affairs) was to mean a blanket permission to enter India for any purpose, there would not be any requirement for setting down various categories of persons who are eligible at all. The clause stating that an Overseas Citizen of India is permitted to enter India for any purpose cannot be extended and interpreted in such a manner to include permitting such an Overseas Citizen of India to participate in international Bridge events. Entry into the country is one aspect and his entitlement or eligibility to participate in International Events representing the 1st Respondent or India is entirely another aspect.

ii) With regard to reference to the 5<sup>th</sup> Clause, extracted herein above,



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we are able to only see that the said 5<sup>th</sup> Clause speaks about the various fields that are not specified in Clauses-1 to 4. In fact, the said clause reads *“in respect of all other economic, financial and educational fields not specified... the OCI card holder shall have the same rights and privileges as a Foreigner.”* Therefore, the contention of the Learned Senior Counsel for the appellant, placing reliance on the said Clause-5 does not aid the appellants case at all. In other words, unless the appellant is able to come within any of the 4 limits of the said notification dated 04.03.2021, viz., Clause-1 to 4, he would not be entitled to any other right or privilege that an Indian citizen or a Non-Resident Indian enjoys.

We have carefully perused the notification dated 04.03.2021 which is admittedly superseding the earlier notifications issued under Section 7-B(1) of the Citizenship Act, 1955 and holds the field as on date. The case of the appellant cannot be brought within any of the Clauses 1 to 4. Once he does not come within the purview of Clauses-1 to 4, he will be relegated to terms of Clause 5 which does not in any manner entitle him to the rights and privileges that have been conferred on an Overseas Citizen of India, treating him on par with Indian nationals in respect of some instances and on par with Non-Resident Indians in certain other instances.



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11. The Learned Senior Counsel for the appellant would also place reliance on the judgement of the Punjab & Haryana High court in ***Sorad Singh Gil Vs. Union of India and others***, reported in ***AIR 2010 (P & H) 83***, where the Division Bench of Punjab and Haryana High Court held that an Overseas Citizen of India was entitled to participate in International Sports Tournaments, representing India. However, we have gone through the impugned judgement of the P&H High Court, where the facts before this P & H High Court were on a totally different footing. The Division Bench of the P & H High Court, found that in the facts of the case before it, the Overseas Citizen of India had not voluntarily acquired citizenship of the United States of America because he was only born there. However, the Court placed reliance on the fact that he travelled to India at the age of one and therefore permitting the said Overseas Citizen of India to participate in International Sports Tournaments representing India could not be denied. The Division Bench also took note of the fact that after coming to India, the petitioner underwent studies only in India and his father was also serving the Police Department in Punjab. Further the petitioner had already represented India in International Events.



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12. Per contra, the Senior Counsel for the 1<sup>st</sup> respondent, Mr.Srinath Sridevan would contend that the 1<sup>st</sup> respondent is affiliated to Central Government of India and the National Sports Code would apply and bind the 1<sup>st</sup> respondent. He would also contend that the writ petition was liable to be dismissed on the ground that the appellant did not challenge the circulars. The learned Senior counsel would also further contend that the said appellant invokes the writ jurisdiction under Article 226 of the Indian Constitution alleging violation of Article 19 of the Constitution of India, 1950. However, in this regard the learned Senior counsel for the appellant would straightaway concede that the appellant is not invoking the writ jurisdiction under Article 19 of the Constitution, but filed the writ petition, complaining of violation of Article 14 of the Constitution of India alone.

13. The learned Senior counsel for the 1<sup>st</sup> respondent would place reliance on the following judgements:

i) ***State of Gujarat and other Vs. Shri Ambika Mills Ltd*** reported in ***(1974) 4 SCC 256***

ii) ***Louis De Raedt and Ors Vs. Union of India and Others*** reported



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in (1991) 3 SCC 554

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iii) *Raquel Shefali Fernandez (Minor) Vs. Equestrian Federation of India and Another*, reported in *2023 SCC Online Del 2535*

He also placed reliance on the ratio laid down in the above judgements of the Supreme Court and Delhi High Court and would conclude his submissions stating that the writ court has analyzed the legal position in a proper manner and the appeal, therefore it is liable to be dismissed.

14. As discussed above, we are unable to see any of the notifications, especially the final notification issued under section 7-B(1) dated 04.03.2021 entitling the appellant to seek participation in bridge events. As rightly pointed out by the learned Senior counsel for the 1<sup>st</sup> respondent, the 1<sup>st</sup> respondent is affiliated to the Central Government and is governed by the National Sports Development Code of India, 2011. When a policy decision is taken by the Central Government that only Indians would be permitted to represent India and participate in international sports events, the courts cannot be called upon to interfere with such decisions of the State. The appellant admittedly chose to voluntarily leave the shores of India and settle down in the United States of America. He acquired



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citizenship there. Subsequently, by virtue of provisions of Section 7-A of the Citizenship Act, 1955 (introduced by way of Act 6 of 2004 and subsequently by Amendment in Act 1 of 2015), he became an Overseas Citizen of India.

15. Further, the submissions of the Learned Senior Counsel for the appellant with regards to the impugned letter referring to two circulars and that the two circulars would not apply to the appellant's case, we have perused the two circulars referred to in the impugned letter dated 23.12.2010

i) In the circular dated 26.12.2008, the Central Government referring to the decision of the Delhi High Court in **Karm Kumar**'s case, declared that the best interest of Indian Sports would be served by ensuring that the players who are Indian citizens can alone represent the Country in national teams and that it would ensure that the limited resources available are invested optimally in building world class athletes and that it would also provide an opportunity of giving international exposure and training to deserving local talent and that it would further improve them to world class performance levels. No doubt, in the concluding paragraph of the said



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circular, it has been stated that “henceforth only players who are citizens of India would be entitled to receive government support for representing the country in the national teams. Further, the above said policy decision would also be applicable in considering proposals for participation in national teams and international sports events”.

However, we are of the view that the circular has to be read as a whole and not dissecting it to give an interpretation that the circular was only pertaining to permitting Overseas Citizens of India becoming entitled to receive Government support while representing the Country in National teams. We are able to see that, the said circular itself came to be passed only consequent to the directions of the Delhi High Court in ***Karm Kumar Vs. Union of India***, reported in ***2010 SCC Online Del 2579***, where the Government was called upon to review the matter of participation of Foreign Nationals of Indian Origin in the national teams and to bring out a Uniform National Policy in the best interest of sports in the Country. It is also seen from the said letter that the said direction of the Government has been considered and comments of the Indian Olympic Association, recognized National Sports Federations were all considered and also factored. It was also clearly expressed that the overwhelming view that



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emerged on such consultation was that only Indian citizens should represent the country in national teams. Therefore, we are unable to subscribe to the arguments of the Learned Senior Counsel for the appellant that this circular pertains only to the issue of receiving Government support and nothing more.

ii)With regard to the other circular dated 12.03.2009, the Central Government has referred to the first circular dated 26.12.2008. According to the learned Senior counsel for the appellant, the clarification issued by the Central Government was that only Indian nationals are eligible to be part of the national team and walk under the Indian flag. However, the appellant did not want to represent the national team or walk under the Indian flag and therefore the said circular would not be applicable to the appellant.

On a careful reading of the said circular one thing that emerges clearly is that even in the subject of the set circular, it has been clearly mentioned as follows:

*“Subject:Government policy -on participation- of foreign nationals- of Indian origins -in national teams”.*



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16. The opening sentence of the said circular dated 12.3.2009 reads as follows:-

*“ Government vide letter of even number dated 26.12.2008 has laid down the national policy on the above-mentioned project.”*

This clearly negates the arguments advanced by the Learned Senior Counsel for the appellant placing reliance on the circular dated 26.12.2008 to contend that it pertains only to Government grants and nothing more can be made out of the said circular. The circular dated 12.03.2009, clearly establishes the purpose of the earlier circular and the policy decision taken viz., to not permit foreign Nationals of Indian Origin. Further we are also unable to accept the other limb of the argument of the Learned Senior Counsel for the appellant that the appellant does not intend to be part of the national team and walk under the Indian flag and therefore this circular would also not apply to the appellant's case. However, it is pertinent to state that, what the Central Government meant by “ *be part of the national team and walk under the Indian flag*” is only representing India and not the literal sense of carrying the Indian flag or Indian banner at the events concerned.



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17. From the discussions made herein above and having found that both the circulars clearly pertain only to the Government Policy regarding participation of Foreign Nationals of Indian Origin in National teams, the writ petition, without challenging the two circulars, is clearly not maintainable. The case advanced by the appellant is only that the two circulars would not apply to him. However, we have already found that such contentions put forth by the appellant are not acceptable and cannot be justified. Therefore, failure to challenge the two circulars is fatal to the case of the appellant and consequently on this ground alone the writ petition deserves to be dismissed, as not maintainable.

18. Even otherwise, we have also found that by no stretch of imagination, the appellant's case can be brought within the provisions of section 7-B(1) or the notifications issued thereunder.

19. The Hon'ble Supreme Court, in ***Louis De Raedt and Ors Vs. Union of India and Others***, cited (supra) and relied on by the learned Senior counsel for the 1<sup>st</sup> respondent, held that domicile is a matter of



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choice and when a person acquires a new domicile, he espouses his intention of making his permanent home in the said country of residence and continue to reside there permanently. In this case also, the appellant voluntarily moved his residence to the United States of America and where he also acquired citizenship and he has clearly demonstrated an intention of permanently residing there. The Hon'ble Supreme Court also held that the Fundamental Rights of such foreigners was confined only to Article-21 of the Constitution of India, relating to Life and Liberty and does not include the right to reside and settle in India and that Article-19(1)(b) of the Constitution of India would be applicable only to the citizens of this country. The Delhi High Court also in a very recent pronouncement on 04.05.2023, in the case of ***Raquel Shefali Fernandez (Minor) Vs. Equestrian Federation of India and Another, 2023 SCC Online Del 2535***, following ***Karan Kumar's*** case (cited supra) held that 7-B(1) of the Citizenship Act, 1955 makes it abundantly clear that only such rights which are made available are those that are notified by the Central Government for OCI Cardholders and equal rights cannot be claimed by the OCI Cardholders.



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20. The writ court has considered all relevant factors and arrived at a reasoned order, which in our opinion, does not warrant any interference.

21. For all the above reasons, we confirm the order of the Learned Single Judge and consequently, the writ appeal stands dismissed and there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**(D.K.K.J) & (P.B.B.J)**  
07.08.2023

Internet : Yes  
Index:Yes/No  
Neutral Citation:Yes/No  
kpr

To



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1.The President

Bridge Federation of India  
a Society registered under  
Societies Registration Act, 1860  
1-F Ammaiammal Street, Ayyavoo Colony  
Aminjikarai, Chennai-600 029

2.The Secretary, Dept of Sports  
Minsitry of youth Affairs and Sports  
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Room No.504-B-Wing Shastri Bhavan  
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3.The Secretary, Ministry of Home Affairs  
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4.The Secretary, Ministry of Overseas Indian Affairs  
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**D.KRISHNAKUMAR, J.,**  
**and**  
**P.B.BALAJI,J**



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(kpr)

Pre-delivery judgment in  
W.A.No.888 of 2015

07.08.2023