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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date Decision: 18th January, 2023

+ **W.P.(C) 573/2023 & CM APPL. 2226/2023 CM APPL. 2227/2023**
ASHOK KUMAR GUPTA Petitioner

Through: Mr. Hrishikesh Baruah, Ms. Apoorva Jain, Advocates along with Petitioner in person (M-9810671087)

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Farman, Sr. Panel Counsel with Mr. Tarveen Singh Nanda, G.P. & Ms. Usha Jamwal, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner – Ashok Kumar Gupta has filed the present petition seeking directions to the Respondent No.2 – Regional Passport Office, New Delhi to renew his passport for a period of ten years in accordance with law.
3. Mr. Barua, Id. Counsel for the Petitioner submits that the Petitioner had moved a specific application seeking permission and clarification from the Id. Chief Metropolitan Magistrate, South District/ Saket Courts (*hereinafter, “Id. CMM”*) that his passport be renewed for ten years. The Id. CMM vide order dated 2nd December, 2022 merely directed that the Petitioner’s passport be renewed as per rules and in accordance with law. The relevant portion of the said order reads as under:

“File taken up on an application moved on behalf of the applicants/accused namely Ramdhari Gupta and Ashok Kumar seeking modification/clarifications of the order dated 03.08.2022. Id. Counsel for accused has submitted that an application for renewal of the passport was

moved on behalf of the applicants/accused persons seeking renewal of passport for a period of 10 years which was disposed of on 03.08.2022.

heard. Record perused.

As per order dated 03.08.2022, this Court had given its no objection qua application of the accused for renewal of the passport. In the said order, it was stated that the Court had no objection if the accused applies for passport. The said order is modified to the extent that this Court has no objection if the passport of the applicant/accused is renewed as per rules and in accordance with law.

The application stands disposed of as allowed.

Copy of this order be given dasti."

4. Ld. Counsel for the Petitioner relies on the judgment of the Hon'ble Bombay High Court in the case of **Narendra K. Ambwani vs. Union of India and Ors. (2014(4) Bom CR 281)** to argue that if the Id. Magistrate passes an order that the renewal ought to be as per Rules, then the renewal ought to be for a period of ten years.

5. The Id. Counsel for the Respondents submits that this matter would be covered by the recent decisions of this Court in **W.P.(C) 15664/2022** titled **Kunal Minda v. Union of India and Ors.** (decided on 19th December, 2022) and **W.P.(C) 11782/2022** titled **Arun Kumar Gupta @ Arun Ramavtar Guupta v. Union of India** (decided on 20th December, 2022). He submits that unless and until specific orders mentioning the period for which the passport is to be renewed, is given by the concerned Magistrates, the renewal of the passport is made only for a period of one year.

6. It is noticed by this Court that repeatedly several matters are filed before the Court, for renewal of passports for ten years. The legal position in this as laid down by this Court in **Deepak Jain v. Union of India & Anr.,**

W.P.(C) 10680/2018 is that the ld. Magistrate would have to expressly indicate the period for which the passport ought to be issued/renewed. If the said indication is not provided in the order passed by the ld. Magistrate, then the passport would be liable to be renewed only for a period of one year.

7. Recently, this Court had the occasion to consider similar matters in **Kunal Minda (supra)** and **Arun Kumar Gupta (supra)** wherein the Court observed as under:

“Kunal Minda v. Union of India and Ors., W.P.(C) 15664/2022

6. The matter has been heard. A perusal of the judgement in Deepak Jain (supra) shows that the ld. Single Judge of this Court has already taken a view in the matter after considering the judgement in Narendra K. Ambwani (supra) as also the decision in Prashant Bhushan (supra). After considering the said decisions as also the notification dated 25th August, 1993 passed by the Government of India, the Court came to the following conclusion:

“10. It is apparent from the language of the notification dated 25.08.1993 – which is not under challenge in these proceedings – that if no period for issue of the passport or approval is specified, the passport would be issued for a period of one year. Admittedly, the Passport Rules, 1980 provide that the period of validity of a passport shall be ten years. The reference to Rules by the Trial Court should in normal circumstances also mean the same as held by the Bombay High Court in Narendra K. Ambwani v. Union of India & Ors.: Civil Writ Petition No.361/2014, decided on 13.03.2014. However, the decision in Prashant Bhushan v. Union of India & Anr.: 2016 (154) DRJ 385 (DB) is clear in this regard. Thus, it would be necessary for the applicant to seek orders for expressly indicating the period for which a passport can be issued. In view of the above, the present petition is disposed of by granting liberty to the petitioner to approach the concerned Court for

necessary clarification. In the event, the Trial Court indicates that it has no objection for issuance of the passport for the full term as provided under the Passport Rules, 1980, the petitioner would be at liberty to make a fresh application for renewal of the passport and it would be processed, accordingly.”

7. In the present case , it is noticed that the ld. MM’s order does not specify the period for which the passport is to be renewed. It merely states that the NOC is granted for renewal of the passport. In line with the above decision, the Petitioner is permitted to approach the concerned MM for seeking clarification as to the period for which the passport can be renewed.

8. Upon the said order being passed by the ld. MM, the Petitioner is free to make a fresh application for renewal of the passport along with the copy of the ld. MM’s order of clarification and any other authorities in an expeditious manner.”

Arun Kumar Gupta @ Arun Ramavtar Guupta v. Union of India, W.P.(C) 11782/2022

“8. Insofar as the renewal of Passport is concerned, the legal position in respect thereof is clear as has been laid down by a Division Bench of this Court vide order dated 7th January, 2016 in Prashant Bhushan vs. Union of India & Anr., 2016 SCC OnLine Del 79 and vide order dated 8th October, 2018 in Deepak Jain vs. Union of India & Anr., 2018 SCC OnLine Del 11767. In the decision of Deepak Jain (supra), the learned Single Judge of this court had considered the notification dated 25th August, 1993 under Section 6(2)(f) of the Passport Act, 1967 and has observed that if the order of the trial court does not mention the period for which the passport can be renewed, it shall be only renewed for a period of one year in terms of the 1993 notification. However, if the passport applicant wishes to seek a passport renewal for a period of ten years, a specific order to the said effect would have to be obtained from the Trial Court.

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9. *This decision in Deepak Jain (supra) has also been reiterated by this Court in order dated 19th December, 2022 of W.P. (C) 15774/2022 titled Kunal Minda v. Union of India and Anr.*

10. *In view of the above legal position, the prayer of the petitioner for renewal of passport for a period of ten years can only be granted if the concerned Trial Court in Gujarat clarifies or gives permission to the said effect.*

11. *Accordingly, the petitioner is permitted to approach the concerned Trial Court in Ahmedabad or the Gujarat High Court, as he may be advised, which imposed/modified the conditions on 23rd August, 2019/11th April 2022 and seek a clarification for renewal of his passport for a period of ten years. If a clarification is issued by the concerned court, the same may be submitted to the passport authority, after which the application for renewal of passport shall be processed in accordance with law."*

8. Considering the legal position in this matter, it is directed that the Id. CMM would consider afresh the application filed by the Petitioner and pass a specific order, mentioning the period for which the passport is to be renewed. The Id. Magistrate may take into consideration all the relevant facts and circumstances including the nature of offence and whether there is an embargo on the Petitioner's travel abroad without permission of the Court. The Id. Magistrate shall pass an order in terms of the directions hereinabove, for renewal of the Petitioner's passport for a specific period, within a period of 30 days.

9. Petition is disposed of in these terms. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

JANUARY 18, 2023

Rahul/KJ