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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 28th August, 2023*

+ CRL.M.C. 4486/2023 and CRL.M.A. 17165/2023 (int. directions)

PRADYUMN AHUJA

..... Petitioner

Through: Mr.Pramod Gupta with Ms.Nicole,
Ms.Sanya and Ms.Utkarsha,
Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr.Ritesh Kumar Bahri, APP for
State.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. By way of the present petition, the petitioner impugns the order dated 1st May, 2023 passed by the ACMM, East District, Karkardooma Court in Complaint Case No.52496/2016, whereby the application of the petitioner for grant of permission for issuance/renewal of passport for ten years has been dismissed.
2. On the last date of hearing, notice was issued to the respondent no.2.
3. Counsel for the petitioner submits that the respondent no.2 has been duly served.
4. None appears on behalf of the respondent no.2 despite service.

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5. Brief facts leading to the filing of the present petition are that the respondent no.2 filed a Complaint Case No. 52496/2016 against the management of the Vivekanand School and the petitioner, who is the chairman of the said School. The respondent no.2 was working as an assistant teacher (Nursery) in the said school before she was relieved from the post of assistant teacher vide order dated 7th July, 2017 issued by the school for not having requisite qualifications as per Recruitment Rules. The appeal filed by the respondent no.2 before Delhi School Tribunal against the aforesaid order was also dismissed stating that the respondent no. 2 was not entitled to the relief of reinstatement, as she does not possess the required qualification for the post of Assistant Teacher (Nursery). The allegations made by the respondent no.2 in the complaint filed against the petitioner before the Trial Court pertains to harassment and forceful resignation. The matter is at the stage of final arguments before the Trial Court.

6. The petitioner filed an application for grant of No Objection Certificate (NOC) for issuance/renewal of passport of the petitioner in the said complaint case. Vide order dated 7th November, 2022, the Trial Court granted no objection to the issuance/renewal of passport of the petitioner as per the prescribed rules, while directing that the accused shall not leave the country without the permission of the Trial Court.

7. In exercise of powers conferred under Section 22(a) of the Passports Act, 1967, the Ministry of External Affairs issued a notification dated 25th August, 1993 with regard to issuance/renewal of passports of persons against whom criminal cases are pending before courts in India. The relevant portion of the aforesaid notification is set out below:

“(a) the passport to be issued to every such citizen shall be issued

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- 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 the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;*
- iii. *If such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the 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 a period of travel abroad specified in the order.”*

8. Since no specific time period for renewal/issuance of passport was mentioned in the order passed by the Trial Court on 7th November, 2022, the passport of the petitioner was issued/renewed for a period of one year in terms of the aforesaid notification.

9. Subsequently, the petitioner filed an application for issuance/renewal of passport for a period of 10 years before ACMM, East District, Karkardooma Court. The said application was dismissed vide impugned order dated 1st May, 2023 while observing that it is not the case of the petitioner that he has to travel abroad frequently and the issuance of passport for a year is causing hardship to the petitioner.

10. It is stated on behalf of the petitioner that due to the issuance/renewal of passport for a limited period of one year, the petitioner is unable to travel abroad as in most of the countries, there is a requirement that the passport should be valid for a minimum period of six months from the date of arrival/return. Hence, the passport of the petitioner, which is issued/renewed



for a period of one year, can only be used by the petitioner for two to three months.

11. Counsel for the petitioner submits that the petitioner is entitled to renewal of passport for a regular period of ten years.

12. Counsel for the petitioner has placed reliance on the judgment dated 23rd August, 2022 passed by the Karnataka High Court in W.P. (C) No. 19203 of 2021 titled ***Smt. Kasturi Rajupeta v. Union of India & Ors*** to contend that no permission of the concerned court is required for renewal/issuance of the passport.

13. I have heard the counsels and perused the material on record.

14. In the judgment in ***Kasturi*** (supra), it has been held that the respondent shall renew/issue the passport of the petitioner without insisting for the permission of the court, where criminal case is pending against the petitioner. It was further held that if the petitioner requires to travel abroad then the petitioner shall seek permission from the concerned court.

15. The Supreme Court in ***Maneka Gandhi v. Union of India***, AIR 1978 SC 597, has held the right to travel abroad to be a facet of fundamental right to life and liberty guaranteed under Article 21 of the Constitution of India and that no person shall be deprived of the same except in accordance with the procedure established by law. The relevant paragraphs of the said judgment are set out below:

“174. I will now proceed to examine the provisions of Passports Act, 1967, to determine whether the provisions of the Act are in accordance with the procedures established by law.

175. The preamble states that the Act is to provide for the issue of passports and travel documents to regulate the departure from India of citizens of India and other persons and for matters

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*incidental or ancillary thereto. It may be remembered that this Act was passed after **the Supreme Court had held in Satwant Singh v. Union of India that the right to travel abroad is a part of person's personal liberty of which he could not be deprived except in accordance with the procedure established by law in terms of Article 21 of the Constitution.** The legislature came forward with this enactment prescribing the procedure for issue of passports for regulating the departure from India of citizens and others."*

16. If the passport of the petitioner is issued/renewed for a period of one year only, then the petitioner will have to apply for renewal/issuance of his passport after every one year. Further, most countries require the passport to be valid for a period of six months from the date of return. Therefore, the effective validity of the passport of the petitioner will only be for a period of six months and thereafter, the petitioner will have to apply for renewal of passport every time he has to travel abroad. There is no justification for the petitioner having to seek renewal/issuance of his passport at such short intervals.

17. In any event, the petitioner has to seek permission of the Court before travelling abroad in terms of the order dated 7th November, 2022 passed by the Trial Court. Therefore, in my opinion, there is no basis to deny renewal/issuance of passport of the petitioner for a regular period of ten years.

18. As regards the submission of the respondent that the petitioner may settle abroad without the knowledge of the Court, it has been correctly observed in the impugned order that the said submission of the respondent is without any basis.

19. In my considered view, no cogent reasons have been given by the learned ACMM for dismissing the aforesaid application of the petitioner.

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20. Accordingly, the petition is allowed and the impugned order dated 1st May, 2023 is set aside. The passport authorities are directed to renew/issue passport of the petitioner for a regular period of ten years.

AMIT BANSAL, J.

AUGUST 28, 2023

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