

AD-26
Ct No.09
25.01.2024
TN

WPA No. 938 of 2024

Ratan Pattanayak
Vs.
The Union of India and others

Mr. Soumyajit Das Mahapatra,
Ms. Madhuri Sinha

.... for the petitioner

Mr. Ashoke Kumar Chakraborti, Ld. ASGI,
Mr. Kumar Jyoti Tewari,
Mr. Tirtha Pati Acharyya

.... for the UOI

Mr. Wasim Ahmed,
Mr. Sk. Md. Masud

.... for the State

1. The present challenge has been preferred against refusal to renew the passport of the petitioner. Learned counsel for the petitioner argues that despite the Notification dated August 25, 1993 issued by the Ministry of External Affairs stipulating that grant/renewal of passport in respect of the persons against whom allegations of commission of offences have been made which are pending before a criminal court being subject to permission being given by the jurisdictional criminal court, the jurisdictional criminal court has refused to grant such permission on the ground that it does not have jurisdiction to do so.
2. Heard learned counsel for the parties.

- 3.** Learned ASG points out that the order of the criminal court has not been challenged in the present writ petition. However, since the petitioner submits that the petitioner is required to leave India and join service in Nigeria by January 31, 2024, in view of the extreme urgency involved, instead of entering into technicalities, this court under its powers of judicial review under Article 226 of the Constitution of India hereby decides to look into the veracity of the order of the criminal court before which the criminal case is pending against the petitioner.
- 4.** It transpires from the order dated July 21, 2023 annexed at page-98 of the writ petition that the ACJM, Dantan, Paschim Medinipur, vide the said order, held that it is beyond the jurisdiction of the said court to issue no objection in favour of accused persons for renewal of their passport.
- 5.** The said order being palpably perverse, since the ACJM, Dantan, Paschim Medinipur completely overlooked the Notification issued by the Ministry of External Affairs dated August 25, 1993, the same cannot be sustained in law.
- 6.** The Notification-in-question clearly provides exemptions from the operation of the provisions of Clause (f) of Sub-Section (2) of Section 6 of the

Passports Act in respect of accused persons, in the event the said accused person obtains an order permitting him to leave the country from the jurisdictional criminal court.

- 7.** In such view of the matter, WPA No. 938 of 2024 is disposed of by directing the ACJM, Dantan, Paschim Medinipur to reconsider the application of the petitioner and to take a call as to whether permission should be given to the petitioner to leave the country, within the contemplation of the Notification dated August 25, 1993 issued by the Ministry of External Affairs as annexed at page-111 of the present writ petition, read in conjunction with Section 6(2)(f) of the Passports Act.
- 8.** Such exercise shall be completed by the ACJM, Dantan, Paschim Medinipur latest by January 29, 2024, which is the next working date. The petitioner shall communicate a server copy of this order by the first hour of January 29, 2024 before the ACJM, Dantan, Paschim Medinipur.
- 9.** Upon filing of the same with a put-up petition, the ACJM, Dantan, Paschim Medinipur shall act immediately in terms of this order. Upon obtaining permission from the ACJM, Dantan,

Paschim Medinipur, if at all granted, the petitioner will be at liberty to approach the Passport Authority immediately.

10. It is expected that the Passport Authorities, keeping in view the exigency involved, shall decide on the reissuance of the passport thereafter at the earliest, preferably within twenty-four hours thereafter.

11. There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)