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14.03.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 4380 of 2024

Joydip Banerjee
Vs.
Union of India & Ors.

Mr. Goutam Chakraborty,
Mr. Kartik Kumar Ray
...for the petitioner

Mr. Kumar Jyoti Tewari,
Ms. Amrita Pandey,
Mr. Ghanshyam Pandey
...for the respondents

1. Learned counsel for the petitioner submits that the petitioner is a Mechanical Engineer. However, when the petitioner applied for passport, the Passport Authorities gave an endorsement that his application should be processed for sending the file to PBO (Passport Back Office) as the ECR ppt is applied for being submitted as annexure A thereto.
2. ECR, it submitted, denotes "Emigration Check Required". It is contended that being a mechanical engineer, which has been admitted by the Passport Authorities in their own communication dated November 03, 2023, a copy of which is handed over in Court today, the petitioner's application for Tatkal Passport could not have been processed through the ECR mechanism.

3. Learned counsel relies on the documents annexed to the supplementary affidavit filed today with leave of Court, which indicate, inter alia, that except for those occupations as mentioned therein all those with matriculation or higher educational credentials are normally eligible for non-ECR passport. It is, thus, submitted that the petitioner being a mechanical engineer and obviously meeting the academic benchmark required, the exercise by the respondent-authorities was *de hors* the law.

4. Learned counsel for the respondent-authorities places reliance on the application for passport, annexed at page 23 of the writ petition, which indicates that the educational qualification of the petitioner is between eighth and ninth standard and he is not eligible to Non-ECR category.

5. I find sufficient substance in the contention of the respondents that the application for passport made by the petitioner himself, annexed at page 23 of the writ petition, itself indicates that the petitioner's educational qualification is between eighth and ninth standards and he is not eligible for non-ECR category. Thus, the respondent-authorities proceeded perfectly in accordance with law in relegating the matter to the ECR Mechanism, since the petitioner, as per his own application, does not meet the educational qualification for non-ECR processing.

6. Rather, the respondent-authorities, as evident from the communication dated November 03, 2023 which is handed over in Court today by the petitioner himself, were cautious enough to indicate that there was some discrepancy regarding educational qualification of the petitioner, which is mentioned between eight and ninth standard in the passport application, whereas the petitioner's designation is given as Senior Manager (Mechanical).

7. Thus, I do not find any fault on the part of the respondent-authorities in channeling the petitioner's Tatkal application through ECR Mechanism.

8. However, for the ends of justice, since the petitioner claims that he is a Mechanical Engineer and falls within the Non-ECR category, it is deemed that the application filed by the petitioner stands cancelled.

9. The petitioner is at liberty to file a fresh application for passport, be it Tatkal or otherwise, with proper details and submitting due documents therewith, disclosing his actual education qualification and disclosing other relevant information required.

10. Upon such an application being made, the respondent-authorities shall consider the same independently without being prejudiced in any

manner by anything which was stated in the previous passport application and process the same in accordance with the extant Rules and regulations.

11. It is made clear that in the event the petitioner clearly mentions in his application regarding his educational qualification and substantiates the same by appropriate documents and according to those, he is entitled to the Non-ECR category, the passport application shall be processed accordingly by the respondent-authorities.

12. WPA No. 4380 of 2024 is disposed of accordingly, in the light of the above observations.

13. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)