

OD-6

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/1097/2024

ADITYA SARDA
VS
REGIONAL PASSPORT OFFICER & ANR.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : 26th November, 2024.

Appearance:

Mr. Sudhir Mehta, Adv.
Mr. Anurag Bagaria, Adv.
...for the Petitioner.

Mr. Asok Kr. Chakrabarti, Ld. ASG.
Mr. Kumar Jyoti Tewari, Adv.
...for the Respondents.

1. The petitioner seeks renewal of his passport for a period of ten years. A criminal case being Bhowanipore Police Station case no. 525 dated 13th December, 2018 under Sections 420/467/468/471/120B of the Indian Penal Code is pending against him.
2. The petitioner earlier approached this Court by filing a writ petition being WPO/353/2024 challenging the condition of GSR-570(E) dated 25th August, 1993 published by the Ministry of External Affairs in respect of the citizens of India against whom proceedings in respect of an offence alleged to have been committed are pending before a criminal court in India. The condition laid down in the

notification is that the passport to be issued to every such citizen shall be issued for a period specified in the order of the Court and if the Court specifies a period for which the passport has to be issued, or if no period either for the issue of the passport or for the travel abroad is specified in the order, the passport shall be issued for a period of one year.

3. In the said writ petition, a prayer was made for a direction upon the respondent authority for renewal of his passport for a period of ten years.
4. The writ petition stood dismissed by the Court vide judgment dated 2nd May, 2024. An appeal has been preferred by the petitioner being APOT/201/2024 which is pending consideration before the Hon'ble Division Bench.
5. Citing the facts of the case the petitioner filed an application before the learned Chief Judicial Magistrate, Alipore, South 24 Parganas and prayed for a direction for issuance/renewal of passport for a period of ten years.
6. Learned Court vide order dated 19th August, 2024 allowed the prayer of the petitioner. The order mentions that the Court finds it fit to issue no objection in favour of the petitioner/accused for the purpose of renewal of his passport.
7. It is submitted that allowing the prayer of the petitioner implies that the passport is to be renewed for a period of ten years.

8. The petitioner interprets the aforesaid order in a manner to suggest that the learned Court permitted renewal of the passport for a period of ten years in accordance with his prayer made in the application.
9. Learned ASG opposes the prayer of the petitioner. It has been submitted that the writ petition is barred by the principle of *res judicata*. Prayer of the petitioner for renewal of passport for a period of ten years stood rejected by the Court in the earlier writ petition filed by him against which the appeal is pending. The petitioner is renewing the same prayer all over again by filing the instant writ petition.
10. It has been submitted that the notification dated 25th August, 1993 prescribes the conditions under which the passport of an Indian citizen against whom criminal case is pending in the Courts of India can be issued. It has been submitted that there is a necessity to restrict the travel of such person. Allegation against the petitioner is very serious and there are chances that he may abscond.
11. I have heard the submissions made on behalf of both the parties. It appears that the notification of the Ministry of External Affairs makes it very clear that if no period either for the issue of the passport or for travel abroad is specified in the order, the passport shall be issued for a period of one year only. The petitioner has failed to obtain any order from any Court specifying the period for

which the passport will be issued. The prayer of the petitioner for renewal of the passport for ten years stood rejected by the Court on the earlier occasion. The same prayer cannot be pressed in the subsequent writ petition filed by him.

12. The Court is not inclined to exercise jurisdiction in the matter. The writ petition fails and is hereby dismissed.
13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

nm.