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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NOS.323, 324 & 365 OF 2024

WRIT PETITION NO.323 OF 2024

PEDRO ANTONIO REBELO ... PETITIONER

Versus

UNION OF INDIA, THR. THE
MINISTRY OF EXTERNAL
AFFAIRS AND 3 ORS. ... RESPONDENTS

Mr S.S. Kantak, Senior Advocate with Mr P. Talaulikar, Ms S. Dessai, Ms Neha Kholkar and Mr S. Kher, Advocates for the Petitioner.

Mr Pravin Faldessai, Deputy Solicitor General of India with Mr Raviraj Chodankar, Central Government Standing Counsel for the Respondents.

**WITH
WRIT PETITION NO.324 OF 2024**

THOMAS FERNANDES ... PETITIONER

Versus

UNION OF INDIA, THR. THE
MINISTRY OF EXTERNAL
AFFAIRS AND 3 ORS. ... RESPONDENTS

Mr S.S. Kantak, Senior Advocate with Mr P. Talaulikar, Ms S. Dessai, Ms Neha Kholkar and Mr S. Kher, Advocates for the Petitioner.

Mr Pravin Faldessai, Deputy Solicitor General of India with Mr Raviraj Chodankar, Central Government Standing Counsel for the Respondents.

**AND
WRIT PETITION NO.365 OF 2024**

BEMVINDA DO PERPETUA
SOCORRO

.... PETITIONER

Versus

UNION OF INDIA, THR. THE
MINISTRY OF EXTERNAL
AFFAIRS AND 3 ORS.

... RESPONDENTS

Mr A.D. Bhohe with Ms R. Prazeres, Advocates for the Petitioner.
Mr Pravin Faldessai, Deputy Solicitor General of India with Mr
Raviraj Chodankar, Central Government Standing Counsel for
the Respondents.

**CORAM: M. S. SONAK &
VALMIKI MENEZES, JJ.**

DATE: 6th MAY 2024

P.C. :

1. Heard Mr Kantak, learned Senior Advocate, who appears with Mr P. Talaulikar for the petitioners in Writ Petition Nos. 323 and 324 of 2024, and Mr A.D. Bhohe, who appears for the petitioner in Writ Petition No.365 of 2024. Mr Faldessai, learned Deputy Solicitor General of India, appears for the respondents in these three petitions.

2. These three petitions broadly raise the following issues:

(a) Whether the appropriate Authorities can decline the issue of OCI card/registration under Section 7(a) of the Citizenship Act, 1955, on the ground that the petitioners'

Indian Passports have been revoked under Section 10 of the Passports Act, 1967 by the Authorities and not surrendered by the petitioners, which, according to the Authorities, is one of the mandatory requirements for considering any application for issue of OCI card or registration;

(b) Do the impugned passport revocation orders warrant interference on various grounds, including the ground that they have been issued by the authorities that lacked jurisdiction to issue the same?

3. In so far as the first issue is concerned, relying on OM dated 04.04.2024 and the statements made by the learned Deputy Solicitor General of India, we have disposed of Writ Petition Nos.359 and 361 of 2024, wherein we have taken cognisance of the OM dated 04.04.2024 issued by the Ministry of External Affairs, (PSP Division) clarifying that even passport revocation orders would now be considered as Surrender Certificates for obtaining OCI card/registration. Thus, to a great extent, the first issue referred to above stands sorted out with the issue of OM dated 04.04.2024.

4. In so far as the second issue is concerned, we propose to consider the same in these petitions. The petitioners contend that the impugned revocation order made by the Passport Officer/FRRO proceeds on the basis that the petitioners have lost their citizenship of India upon allegedly registering their birth in Portugal. They contend that such an inference is illegal and unwarranted. In any case, they contend that Section 9 of the Citizenship Act, which is a self-contained Code, contemplates any decisions on the issue of citizenship to be considered

and taken by the Authority prescribed under Section 9(2) of the Citizenship Act, 1955. They submit that the Passport Officer or FRRO is not the prescribed Authority under Section 9(2) but it is the Ministry of Home Affairs (MHA), who is the prescribed Authority. Accordingly, the petitioners contend that the impugned revocation order is illegal, void and ultra vires the jurisdiction vested in the Passport Officer or an FRRO.

5. Mr Faldessai contests the above contentions and submits that the impugned revocation order is appealable. He, therefore, submits that the petition which is now restricted to the challenge to the impugned revocation order should not be considered and the petitioners should be relegated to the alternate remedy available under the Passports Act.

6. Since the issue of jurisdiction of the Passport Officer/FRRO to issue the impugned revocation order is raised in this petition, we do not think that it would be appropriate, without further examination, to relegate the petitioners to the alternate remedy. The contention about Section 9 of the Citizenship Act, 1955 being a complete Code and Passport Officer/FRRO having no jurisdiction to decide on the issue of petitioners' citizenship, requires consideration and deeper examination. Nevertheless, since we propose to dispose of this petition finally at the admission stage on 01.07.2024, we leave open all contentions of all parties, including the objection now raised by Mr Faldessai on behalf of the respondents.

7. The petitions are accordingly posted for further consideration on 01.07.2024. The parties should complete their pleadings so that these matters can be finally disposed of at the admission stage.
8. On instructions, the learned Counsel for the petitioners, state that they will apply for OCI card/registration, without prejudice to their contentions, within four weeks from today. Given the OM dated 04.04.2024 and the statements recorded our order made today disposing of Writ Petition No.359 and 361 of 2024, we direct the appropriate authority to consider such applications for OCI card/registration in accordance with law and the light of OM dated 04.04.2024 as expeditiously as possible.
9. Stand over to 01.07.2024 for final disposal at the admission stage.
10. All concerned to act on an authenticated copy of this order.

VALMIKI MENEZES, J.

M. S. SONAK, J.