



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2176 OF 2024

Manoj Balasaheb Dhanavade

... Petitioner

vs.

The Union of India & Ors.

... Respondents

Mr. S.S. Panchpor a/w. Mr. G.D. Tamboli for the petitioner.

Ms. Shruti D. Vyas, Addl. G.P. a/w. Ms. P.N. Diwan, AGP for the State.

Mr. Anjani Kumar Singh for respondent no. 1.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 17 April, 2024

P.C.

1. We have heard learned counsel for the petitioner.
2. In this petition, the only prayer as made is in regard to the renewal (sic reissuance) of the petitioner's passport, which reads thus:

“b. This Hon'ble Court be pleased to issue a writ of mandamus or any other writs in like nature and direct the respondents to decide the application FILE No. BO4077024879222 for renewal of passport for 10 years without insisting for permission of the Court where the criminal case is pending against the petitioner in a time bound manner as may be decided by this Hon'ble Court.”

3. It appears to be quite clear from what has been pointed out to us that an FIR came to be filed against the petitioner dated 26 June, 2019. Such FIR is subject matter of challenge before this Court in a Criminal Writ

Petition filed by the petitioner being Criminal Writ Petition No. 2344 of 2023. It is stated by learned counsel for the petitioner that there is an interim order passed on such proceeding whereby the filing of the chargesheet itself has been stayed, albeit such order is not on record before us, however, we accept what has been informed to us by the learned counsel for the petitioner.

4. Our attention is drawn to the decision of this Court in *Cyrus Keki Balsara vs. The Union of India & Anr.*¹, in which the Court considered the provisions of the Passport Act, 1967 and more particularly Section 5, which provides for “Applications for passports, travel documents etc. and orders thereon” and Section 6 which provides for “Refusal of passports, travel documents etc. and the notification dated 25 August, 1993 issued by the Government of Maharashtra, Ministry of External Affairs. In the context of such provisions, the Court also considered the decision of co-ordinate Bench of this Court in case of *Abbas Hatimbhai Kagalwala vs. State of Maharashtra & Anr.*², in which the Court referring to the decision of this Court in *Vangala Kasturi Rangacharyulu vs. Central Bureau of Investigation*³. The Division Bench held that when a criminal case is pending, such case would fall under the provisions of Section 6(2)(f) of the Passport Act, 1967. It was held that

1 Writ Petition (L) No. 1576 of 2024 dated 8 April, 2024

2 (2022) SCC Online Bom 1992

3 Criminal Appeal No. 1342 of 2017 dated 27 September, 2021

in such circumstances, the notification issued by the Central Government dated 25 August, 1993 would apply, hence it was found appropriate that an application is made to the appropriate Criminal Court so as to obtain orders in terms of notification dated 25 August, 1993. The case of the petitioner is not different from what has fell for consideration in the case of ***Cyrus Keki Balsara*** (*supra*). The relevant observations of the said decision is required to be noted, which reads thus:

“15. The present case is certainly not a case which would fall under the provisions of Section 6(2)(e) of the Passport Act as there is no conviction. It is a case falling under the provisions of sub-section (2)(f) of section 6 where the criminal proceedings are pending. Thus the reliance of Mr.Kantawala on the decision of Vangala Kasturi Rangacharyulu (Supra) as also on the order of the Division Bench in the case of Abbas Hatimbhai Kagalwala (Supra) which is an order solely relied on, would not assist the case of the petitioner which is a case for re-issuance of the passport.

16. Further, it appears that when the petitioner says that his application is for renewal of a passport, it is a misnomer, as the Act and the rules provide for re-issuance of a passport after the same expires. As the Passport Act does not contain any separate provision for renewal of a passport as the prescribed form also provides for re-issuance, we have not been shown any provision, otherwise.

17. In the light of the above discussion, we accept the contention raised on behalf of the respondents that the petitioner’s case falls under the provisions of section 6(2)(f) and also stands covered by the notification issued by Central Government dated 25th August 1993. In these circumstances, the petitioner would be required to make applications to the criminal courts where the cases are pending for re-issuance of a passport. We thus, find that the relief as prayed for by the petitioner in the present proceedings, cannot be granted.

18. We however, keep open the petitioner’s rights to make application to the appropriate criminal courts so as to obtain orders in terms of the notification dated 25th August 1993.

19. All contentions in that regard are expressly kept open.

20. Petition stands disposed of. No costs.

21. Needless to observe that, if the petitioner makes such applications, the petitioner is at liberty to move the court for an early hearing in the event of any urgency is shown by the petitioner to travel abroad.

5. In the light of the above legal position, learned counsel for the petitioner has fairly stated that the petitioner would move an application before the appropriate Court as per the requirement of the notification dated 25 August, 1993 issued by the Central Government, so as to obtain orders seeking approval for re-issuance of a passport.

6. In the above circumstances, keeping open all contentions of the petitioner on the petitioner's proposed application praying for an approval for re-issuance of passport, we dispose of this petition with liberty to the petitioner to approach such appropriate Court.

7. Disposed of in the above terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI , J.)