



W.P.No.1776 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.1776 of 2024

Clemens Bernd Gruttmann

...Petitioner

Vs.

1. Union of India,
Rep. by Joint Secretary, Foreigners-I,
Ministry of Home Affairs,
Major Dhyan Chand National Stadium,
Nea Pragati Maidan, New Delhi – 110 001.
2. Union of India,
Rep. by Director, Immigration,
Ministry of Home Affairs,
Major Dhyan Chand National Stadium,
Nea Pragati Maidan, New Delhi – 110 001.
3. Foreigners Regional Registration Office,
No.26, Shastri Bhawan Annexe Building,
26, Haddows Road, Nungambakkam, Chennai – 600 006.
4. State of Tamil Nadu,
Rep. by the Additional Director General of Police,
Idol Wing CID, Police Training College,
No.2, Natesan Salai, Ashok Nagar,
Chennai – 600 083.



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5. State of Tamil Nadu,
Rep. by the Inspector General of Police,
Idol Wing CID, Police Training College,
No.2, Natesan Salai, Ashok Nagar,
Chennai – 600 083.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the denial of entry of the petitioner into India as illegal and to direct the respondents to permit the petitioner to enter India.

For Petitioner : Mr.S.Manuraj

For Respondents : Mr.Rajesh Vivekanandan, Dy.SG, for R1 to R3
: Mr.LSM.Hasan Fizal, AGP, for R4 & R5

ORDER

This Writ petition has been filed seeking to declare the denial of entry of the petitioner into India as illegal and to consequently, direct the respondents to permit the petitioner to enter India.

2. The case of the petitioner is that he is a German citizen and a German Passport holder and he regularly obtained Visa from Government of India and he has been residing at the Auroville Foundation, an autonomous



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body under the Ministry of Human Resources Development, Government of India, along with his wife viz. Christa Ursula Gruttman, since 1980 and his entry in Auroville was authorised by the President of Auroville, by issuing Identity card in his favour. However, all of a sudden, the 1st respondent denied the entry of the petitioner into India. Hence, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, though the petitioner is a German citizen, however, his entry into India cannot be denied by the 1st respondent and he has fundamental rights under Article 14 and 21 of the Constitution of India, 1950. In order to substantiate his claim, the learned counsel relied upon the decision of the Hon'ble Apex Court in the case of ***Hans Muller of Nuremburg Vs. Superintendent, Presidency Jail, Cakcutta*** reported in (1955) 1 SCR 1284, wherein the Apex Court held that *Article 21 guarantees the protection of personal liberty to citizen and foreigner alike* and he further relied upon the decision of the Hon'ble High Court of Delhi in the case of ***Mohd. Javed and Anr Vs. Union of India and Anr*** reported in 2019 SCC Online Del 8741, to hold that *the procedural due-process of protection against arbitrary state action should*



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be extended to a non-citizen as well. However, in the case on hand, without providing any opportunity and without providing any material to the petitioner, denying his entry into India is wholly unsustainable. Accordingly, he prayed for appropriate orders.

4. Per contra, learned Deputy Solicitor General appearing on behalf of the respondents 1 to 3 submitted that, the Idol Wing CID of Tamil Nadu Police conducted search in three units namely 'Metal Crafts', 'Maroma' and 'Auro Rachana' and recovered antique idols which were suspected to be stolen from various temples in Tamil Nadu and in the above said units, the Auro Rachana, is an antique furniture reclamation/manufacturing unit managed by the petitioner and his wife and the antique idols which were in Dana settlement, were seized. Further, earlier one Vignes Dominique, who is another resident of Auroville tried to obtain Non-antique certificate from Archaeological Survey of India (in short 'ASI') through the petitioner to take the Idols outside India and as the petitioner could not obtain a clearance from ASI, he left Auroville in the year 2019. Thereby, in national interest, the petitioner was blacklisted and LOC was initiated, which cannot be said to be erroneous. Accordingly, he prayed for dismissal of this writ petition.



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5. On the above said contentions, heard learned Additional Government Pleader appearing on behalf of the 4th and 5th respondents and perused the material documents placed on record.

6. A perusal of the materials available on record reveals that, the Idol Wing CID of Tamil Nadu Police carried out searches at three units of Auroville namely 'Auro Rachana', 'Metal Crafts' & 'Maroma' and recovered antique idols and the same are suspected to have been stolen from various temples in Tamil Nadu before several years and it is claimed that the petitioner has a vital role and if the petitioner is allowed to enter into India, the same would hamper the investigation process. Thereby, in National Interest, the Union of India, Ministry of Home affairs has blacklisted the petitioner and prevented his entry into India by initiating the said procedure. On a query made to the respondents, it stands revealed that the investigation is in the preliminary stage and the details of the investigation cannot be revealed as it would hamper the further investigation. Further, the petitioner is not in India and if he is residing in India, any procedural lapses as against the petitioner would attract the decisions relied upon by the learned counsel for the petitioner in which case the ratio laid down therein has to be



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followed by the Government. However, in the present case, the petitioner is a German citizen and he wants to enter into India, by way of Declaration, and in the facts and circumstances of the case, the same cannot be acceded to as a matter of right. In such view of the matter, the prayer sought for by the petitioner cannot be acceded to.

7. For the reasons aforesaid, this Writ petition stands dismissed. No costs.

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NCC	: Yes/ No
Speaking Order	: Yes/ No
Index	: Yes/ No



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