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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-38073-2024 (O&M)

Date of decision: 21.08.2024

Rishab Puri**...Petitioner****Versus****Union of India and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Uttam Dutt, Advocate,
Mr. Amandeep Singh, Advocate and
Mr. Saurabh Khosla, Advocate
for the petitioner.

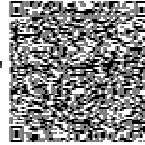
Mr. Sehaj Sandhawalia, Advocate
for respondent Nos. 1 and 3.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition has been made by the petitioner for setting aside the order dated 05.09.2023 passed by the Judicial Magistrate First Class, Gurugram in criminal case bearing No. NACT/13907/2022 titled as ***Genestore India Pvt. Ltd. vs. Indigrd Technology Pvt. Ltd & Ors.***, filed under Section 138 of the Negotiable Instruments Act, whereby an application moved by the petitioner for giving direction to the passport authority to renew the passport of the petitioner had been dismissed.

2. It is submitted that the petitioner had filed an application before the trial Magistrate seeking declaration for renewal of his passport in terms of notification dated 25.08.1993, published by the Ministry of External Affairs, Govt. of India. The trial Magistrate, vide order dated 30.09.2022 (Annexure P-7), had allowed the said application, thereby granting permission

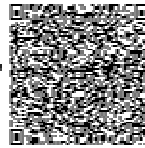
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for renewal/restoration of the passport of the petitioner and also clarifying that it had no objection if the passport authorities renewed the passport of the petitioner. The petitioner then approached the respondent No. 1 for renewal of his passport, which was renewed but only for a period of one year. The reason given in this regard was that the renewal period was restricted to a period of one year or such other time as specified by the trial Court in view of notification dated 25.08.1993. It is submitted by the petitioner that he again approached the trial Magistrate by moving an application for passing a specific order, thereby giving no objection if the passport of the petitioner was issued for full term i.e. for a period of ten years as per applicable laws. This application was dismissed by the trial Magistrate, vide impugned order dated 05.09.2023. Feeling dissatisfied, the present petition has been filed.

3. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law and is liable to be set aside as while passing the same, the trial Court ignored the legal mandate of Clause (a)(i) of notification dated 25.08.1993, which authorizes the Court to specify the period of renewal, failing which, the authorities would be constrained to renew the passport only for a period of one year. It is submitted that the petitioner has to frequently travel abroad as he is one of the directors of a company, which is indulged in the business of manufacturing of competitive and high quality medical and electronic devices in India and is exporting its product to Europe and South East Asia. The petitioner is required to meet prospective clients of his company living abroad as the same is quintessential part of his work profile. It is further submitted that as per Passport Rules, 1980, any ordinary passport has to be in force for a period of ten years from the date of its issuance and in case of

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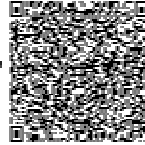
any criminal litigation pending against the passport holder, his passport has to be renewed for the period to be specified/allowed by the trial Court. It is argued that while passing the impugned order, the trial Court did not take all these facts into consideration and also ignored that it was the right of the petitioner to travel abroad and by not granting permission to get his passport renewed for a period of ten years, the petitioner was going to be made to suffer by facing ordeal of moving applications for renewal of his passport after every one year. With these broad submissions, it is urged that the petition deserves to be allowed and the impugned order is liable to be set aside. To fortify his argument, learned counsel for the petitioner has placed reliance upon the authorities cited as ***Narendra K. Ambwani vs. Union of India : (2014) SCC Online Bom 356, Hardik Shah vs. Union of India and another : 2021 SCC Online MP 2326, Ashok Muthana vs. Regional Passport Officer Chennai : 2017 SCC Online Mad 2213, Satwant Singh Sawhney vs. D. Ramarathnam : (1967) 2 SCR 525 and Roshan Lawrence Menezes vs. Union of India : Writ Petition (Lodging) No. 699 of 2020, decided on 12.03.2020.***

4. Learned counsel for respondent Nos. 1 and 3 has submitted that the Regional Passport Authority will abide by the direction as given by this Court as in view of notification dated 25.08.1993, it can renew the passport only for a period of one year in the absence of any direction given by the Court concerned.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. So far as the notification dated 25.08.1993, issued by the Ministry of External Affairs, is concerned, the same was discussed in detail by the High

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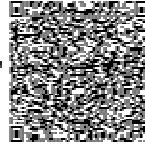
Court of Bombay in ***Roshan Lawrence Menezes***'s case (supra) and it was observed as follows:

"5. The Central Government has issued a notification purportedly under Section 22 of the Act, being G.S.R. 570(E) dated 25 August 1993, exempting citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending, before a Criminal Court in India and who produce orders from the concerned court permitting them to depart from India, from the operation of Clause (f) of Sub- section (2) of Section 6 of the Act subject to the conditions specified in the notification. The conditions inter alia require issuance of passport to such citizens for the period specified in the order of the court referred to above, if the court specifies such period. Alternatively, if there is no period prescribed either for issuance of the passport or for travel abroad in such order, the passport may be issued for a period of one year."

In the aforecited case, the respondents had not renewed the passport of the petitioner for a period of ten years. It was observed that they could not have done so. It was further held that the order of Magistrate called for issuance/renewal of passport was in accordance with the rules and the passport office was bound to renew the passport for a period of ten years.

7. Further, in ***Hardik Shah***'s case (supra), the High Court of Madhya Pradesh, while dealing with a similar issue, had given direction to issue regular passport for a period of ten years to the petitioner, if there was no other legal impediment. In ***Ashok Muthana***'s case (supra), the petitioner had prayed for issuance of a writ in the nature of mandamus, thereby directing the Regional Passport Officer to renew his passport for a period of ten years. He had been

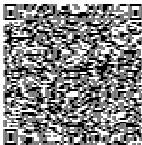
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given permission by the trial Court to get his passport renewed. The authorities renewed his passport only for a period of one year. While observing that as per notification dated 25.08.1993, if the Magistrate passes an order making reference to the said notification, the passport would be renewed only for such period that the Magistrate may specify in the order, or as otherwise specified in the notification, as per which, it had to be issued for one year. Direction was issued that in all cases where the Court of Magistrate directs renewal of the passports, the Passport Rules, 1980 shall apply and the passport shall be renewed for a period of ten years or twenty years, as the case may be.

8. A perusal of the notification dated 25.08.1993 reveals that exemption was granted to Indian citizens, who were facing trials in criminal cases in India to permit them to depart from India and to get their passports issued, subject to the condition that if the Court specifies a period, for which, the passport has to be issued, then it shall be issued for the said specified period and otherwise if no period either for issuance of the passport or for travelling abroad is specified in such order, the passport shall be issued for a period of one year. It is on the basis of these instructions and in view of the fact that the trial Magistrate, while permitting the petitioner to get his passport renewed, did not specify any period that the regional passport authority issued the passport of the petitioner only for a period of one year. In view of condition (a)(i) given in notification dated 25.08.1993, the passport authority is certainly bound to issue passport for a period specified by the Court in respect of a person, who is facing litigation in some criminal trial. While passing the impugned order, the trial Magistrate rejected the prayer made by the petitioner on the ground that he had

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no jurisdiction to give direction to the passport authorities regarding renewal period.

9. In view of ratio of law as discussed above as well as in view of contents of notification dated 25.08.1993, I am of the considered opinion that the trial Magistrate committed an error in declining the prayer made by the petitioner to pass an order for renewal of his passport for a period of ten years. The petitioner is one of the directors of a company and it is not in dispute that he has to travel abroad in connection with his business commitments. Of course, he has to travel by taking permission from the trial Court. However, this cannot be a ground to deny him issuance of a passport for a period of ten years. In case of any ordinary person, the passport has to be issued for a period of ten years. As per notification dated 25.08.1993, there is a rider that if no period is specified by a Court granting permission for renewal of the passport, it shall be renewed only for a period of one year. By virtue of this notification, jurisdiction was certainly vested with the trial Court to specify a particular period, which has not been exercised by the trial Court. Therefore, in view of the discussion as made above, the present petition is allowed and the impugned order is set aside. Respondent No. 3 is directed to renew the passport of the petitioner for a period of ten years, if there are no other legal impediments.

21.08.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No