



2024:DHC:5557-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **LPA 643/2024, CM APPL. Nos.40781-82/2024****UDAY RATRA**

.....Appellant

Through: **Ms. Latika Chaudhary, Advocate.**

versus

REGIONAL PASSPORT OFFICE DELHI & ANR.....RespondentsThrough: **Mr. Farman Ali, SPC with Ms.
Usha Jamnal, Mr. Krishan Kumar,
Advocates.**

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Date of Decision: 22nd July, 2024**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****MANMOHAN, ACJ : (ORAL)**

1. Present appeal has been filed challenging the impugned order dated 12th October, 2022 passed by the learned Single Judge in W.P. (C) 14414/2022 whereby the Appellant's writ petition seeking issuance of directions to Respondent No.1 to renew Appellant's passport without insisting on a No Objection Certificate or the obligation to provide information with respect to criminal cases pending against him, was dismissed. Further, liberty was granted to the Appellant to apply afresh for reissuance of a passport in terms of G.S.R. 570 (E) dated 25th August, 1993.



2. Learned counsel for the Appellant states that the learned Single Judge failed to consider a judgment passed by another learned Single Judge of this Court in ***Ashok Khanna vs. Central Bureau of investigation (Crl. Appeal No.686/2018)*** wherein it was held that in case of renewal of a passport, Section 6 of the Passports Act, 1967 (“**Passports Act**”) is not applicable. She submits that Section 6 of the Passports Act pertains to issuance of a fresh passport or an endorsement for visiting any country and not for renewal of passport. She also draws this Court’s attention to Application Form EA (P) I (which pertains to issuance/fresh duplicate passport) as well as Application Form EA (P) 2 (which pertains to renewal of passport and is applicable to the case of the Appellant). She contends that Form EA (P) 2 does not require the Appellant to furnish a No Objection Certificate from the competent Court for renewal of the passport.

3. *Per contra*, learned counsel for the Respondents states that the present appeal is barred by delay and laches of six hundred and ten (610) days. He further states that in exercise of powers conferred by Clause (a) of Section 22 of the Passports Act, the Government of India has issued a GSR 570 (E) dated 25th August, 1993 wherein it has been mandated that citizens against whom proceedings in respect of an offence alleged to have been committed by them are pending before a Criminal Court in India, shall have to produce a No Objection Certificate from the competent Court. He emphasizes that the GSR 570 (E) (dated 25th August, 1993) had not been challenged in the underlying writ petition. He draws the attention of the Court to paragraph 19 of the appeal whereby status of the five FIRs lodged against the Appellant have been provided. He states that since in



two out of the five matters NOC had already been submitted by the Appellant, thus the Appellant cannot challenge the requirement of furnishing NOC in the rest three FIRs.

4. Having heard learned counsel for the parties and having perused the paper book, this Court finds that Section 5 of the Passports Act pertains to '*applications for passports, travel documents, etc., and orders thereon*'. Section 5 (1B) prescribes that every application under this Section shall be in such form and contain such particulars as may be prescribed. The form and particulars of such application is prescribed under Rule 5 of the Passport Rules pertaining to applications for issuance or renewal of a passport. Further, Section 6 of the Passports Act which deals with '*refusal of passports, travel documents. etc.*' empowers the passport authority to refuse to make an endorsement for visiting any foreign country under clause (b) or (c) of sub-section (2) of Section 5 on any of the grounds mentioned therein. Clause (c) of sub-section (2) of Section 5 permits the passport authority to "*refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement*".

5. This Court is of the view that Section 6 of the Passports Act which deals with refusal of passports, travel documents applies to applications for issuance as well as for renewal of passports. The Appellant's submission that Section 6 of the Passports Act only pertains to issuance of a fresh passport or an endorsement for visiting any country is misplaced and erroneous. The said interpretation is based upon piecemeal interpretation of the Passports Act, rather than a harmonious interpretation.



6. Further, a combined reading of the aforesaid provisions would show that Rule 5 of the Passport Rules which prescribes the form of applications for issuance and renewal of passports is subservient to and to be read with Sections 5 and 6 of the Passports Act. This Court is also of the opinion that Sections 5 and 6 along with Rule 5 of the Passport Rules of the Passport Act form an integrated scheme dealing with issuance and renewal of passport. Consequently, both Sections 5 and 6 along with Rule 5 of the Passport Rules have to be read together.

7. This Court is also of the view that the observations of the learned Single Judge in paragraphs 13 and 21 of the order dated 07th November, 2019 passed in *Ashok Khanna vs. Central Bureau of investigation (Crl. Appeal No.686/2018)* regarding applicability of Section 6 of the Passports Act in case of renewal of a passport is not correct. Even otherwise, reliance on the order passed in *Ashok Khanna vs. Central Bureau of investigation (Crl. Appeal No.686/2018)* offers no assistance to the Appellant as the said order does not exempt the applicant from furnishing information regarding details of proceedings pending before a criminal court in India. Such details are required to be disclosed in terms of paragraph 5 of the Form EA (P) 2 as well which is reproduced below:-

“...Are any criminal proceedings pending against applicant in criminal court in India or any other disqualifications under Section 10 (3)....”

8. Another learned Single Judge of this Court in *Arun Kumar Gupta @ Arun Ramavtar Gupta vs. Union of India (W.P.(C) 11782/2022)* decided on 20th December, 2022 has held as under :-

“8. Insofar as the renewal of Passport is concerned, the legal position in respect thereof is clear as has been laid down by a Division Bench of this



*Court vide order dated 7th January, 2016 in **Prashant Bhushan vs. Union of India & Anr., 2016 SCC OnLine Del 79** and vide order dated 8th October, 2018 in **Deepak Jain vs. Union of India & Anr., 2018 SCC OnLine Del 11767**. In the decision of **Deepak Jain (supra)**, the learned Single Judge of this court had considered the notification dated 25th August, 1993 under Section 6(2)(f) of the Passport Act, 1967 and has observed that if the order of the trial court does not mention the period for which the passport can be renewed, it shall be only renewed for a period of one year in terms of the 1993 notification. However, if the passport applicant wishes to seek a passport renewal for a period of ten years, a specific order to the said effect would have to be obtained from the Trial Court. The relevant portion of the **Deepak Jain (supra)** is set out hereinbelow:*

Reasons and Conclusion

6. A Division Bench of this Court had considered the similar controversy in the case of *Prashant Bhushan v. Union of India & Anr.*: 2016 (154) DRJ 385 (DB). In that case also, the Metropolitan Magistrate had given a NOC for renewal of the passport "as per Rules". The Division Bench examined the same and concluded that since no period was mentioned in the said order, the passport was required to be renewed for a period of one year in terms of the notification dated 25.08.1993.

7. The Court declined to accept the interpretation that even in absence of the specific period being mentioned in the order of the Trial Court indicating its no objection, the same must be construed to be a full term as provided in the Passport Rules, 1980. The Court expressly held —though it is open to the applicant to seek further extension, there is no logic in contending that in the absence of fixation of any time limit by the court it has to be presumed that the court has allowed issuance of the passport for full validity period.

8. In view of the above, the contention of the petitioner that in each case, where the Trial Court issues a No Objection Certificate stating that the passport be issued as per Rules must be construed that the passport be issued for the full term, cannot be accepted.

9. At this stage, it is relevant to refer to the notification dated 25.08.1993, which is set out below:



**“GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS**

NOTIFICATION

New Delhi, the 25th August, 1993

G.S.R. 570(E). – In exercise of the powers conferred by clause (a) of section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs no. G.S.R.298(E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts 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 court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of subsection (2) of Section 6 of the said Act, subject to the following conditions, namely:-

(a) the passport to be issued to every such citizen shall be issued—

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year,

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of a(ii) and a(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;



(c) any passport issued in terms of a(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.

[No.VI/401/37/79]
L.K. PONAPPA,
Jt. Secy. (CPV)"]

10. It is apparent from the language of the notification dated 25.08.1993– which is not under challenge in these proceedings – that if no period for issue of the passport or approval is specified, the passport would be issued for a period of one year. Admittedly, the Passport Rules, 1980 provide that the period of validity of a passport shall be ten years. The reference to Rules by the Trial Court should in normal circumstances also mean the same as held by the Bombay High Court in *Narendra K. Ambwani v. Union of India & Ors.*: Civil Writ Petition No.361/2014, decided on 13.03.2014. However, the decision in *Prashant Bhushan v. Union of India & Anr.*: 2016 (154) DRJ 385 (DB) is clear in this regard. Thus, it would be necessary for the applicant to seek orders for expressly indicating the period for which a passport can be issued. In view of the above, the present petition is disposed of by granting liberty to the petitioner to approach the concerned Court for necessary clarification. In the event, the Trial Court indicates that it has no objection for issuance of the passport for the full term as provided under the Passport Rules, 1980, the petitioner would be at liberty to make a fresh application for renewal of the passport and it would be processed, accordingly.”

9. This decision in **Deepak Jain (supra)** has also been reiterated by this Court in order dated 19th December, 2022 of **W.P. (C) 15774/2022** titled **Kunal Minda v. Union of India and Anr.**

10. In view of the above legal position, the prayer of the petitioner for renewal of passport for a period of ten years can only be granted if the



concerned Trial Court in Gujarat clarifies or gives permission to the said effect.

11. Accordingly, the petitioner is permitted to approach the concerned Trial Court in Ahmedabad or the Gujarat High Court, as he may be advised, which imposed/modified the conditions on 23rd August, 2019/11th April 2022 and seek a clarification for renewal of his passport for a period of ten years. If a clarification is issued by the concerned court, the same may be submitted to the passport authority, after which the application for renewal of passport shall be processed in accordance with law."

9. Section 6 (2) (f) of the Passports Act clearly provides that if the proceedings in respect of an alleged offence committed by the applicant are pending before the criminal Court in India, then it shall constitute a ground for refusal of issuance of passport. In fact by virtue of the beneficial GSR 570 (E) (dated 25th August, 1993), the applicant on submission of No Objection Certificate from the Court where the proceedings are pending, shall be exempt from the operation of Section 6(2)(f) of the Passports Act and be entitled for issuance / renewal of the passport.

10. Keeping in view the aforesaid, the present appeal is dismissed with liberty to the appellant to apply afresh for reissuance of passport in terms of GSR 570 (E) dated 25th August, 1993. Pending applications also stand disposed of.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

JULY 22, 2024

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