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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 16th August, 2024

+ W.P.(C) 11192/2024 & CM APPL. 46276/2024

ANTHONY WATTS

.....Petitioner

Through: Mr. Avinash Mathews and Ms.
Namrata Caleb, Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Chetan Sharma, ASC with Mr.
Balendu Shekhar, CGSC, Mr.
Rajkumar Maurya, G.P. with Mr.
Amit Gupta, Mr. Saurbh Tripathi, Mr.
Krishna Chaitanya, Mr. Shubham
Sharma and Mr. Vikramaditya Singh,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present writ petition demands immediate judicial attention due to the gravity of the humanitarian concern involved.
2. The Petitioner, an Indian citizen, urgently seeks the transfer of the mortal remains of his late son, Mr. Alfi Richard Watts. Late Mr. Watts, who was born on 3rd June 1988 in Hyderabad, India, held an Indian passport—a fact substantiated by the annexed copy,¹ affirming his Indian origin.

¹ Annexure-P1



Furthermore, Mr. Watts ties with India can also be seen from the fact that he was married to Mrs. Sharon Alphonso, whose Indian citizenship is also verified through the documents placed on record.

3. Mr. Watts unfortunately passed away on 15th July, 2024 at Chertsey, United Kingdom. The Petitioner as well Mrs. Sharon Alphonso assert that Mr. Watts during his lifetime had expressed his desire to be buried next to his grandparents in his hometown, Hyderabad, India. The Petitioner therefore now seeks to fulfil his son's last wishes by repatriating Mr. Watts' remains for burial in his native land. Additionally, counsel for the Petitioner informed the court that late Mr. Watts' wife, Ms. Sharon Alphonso, also endorses this request. Due to the urgency and logistical constraints, Ms. Alphonso could not be formally named a co-petitioner but has participated *via* video-conferencing mechanism to affirm her support for the petition.

4. It is pointed out that the authorities in United Kingdom have fully cooperated and provided all the permissions necessary from their end for the transfer of mortal remains of late Mr. Watts. In fact, the local Member of Parliament and the County Councillor where Mr. Watts resided, have actively supported the Petitioner's request. Despite this support, a significant impediment remains—the lack of a Non-Objection Certificate (NOC) from the Indian High Commission in London. This document was unfortunately denied as per communication dated 29th July, 2024. The refusal was based on the grounds that late Mr. Watts was a British citizen at the time of his death and did not possess an Overseas Citizen of India (OCI) card.

5. The excerpt from the High Commission of India in London's website



outlines the procedure for transporting the mortal remains of deceased Indian nationals or Persons of Indian Origin (PIO)/Overseas Citizen of India (OCI) cardholders back to India for funeral purposes. It specifies the necessity of a No Objection Certificate (NOC) and details the process for securing this document. The said information reads as follows:

“4. Certificate for Transportation of Mortal Remains.”

If the next of kin of the deceased Indian national/ PIO/ OCI card-holder wish to transport his, her mortal remains (dead body) to India for funeral purposes, the High Commission issues a No Objection Certificate (NOC) in this regard. Before issuance of this NOC, next of kin of the deceased have to complete certain formalities with local government authorities and have to appoint a Funeral Director/ Undertaker to complete other required formalities for transportation of the dead body. For this service, applicants have to apply in person to the High Commission.

Death of an Indian national should be registered with the High Commission by the next of kin of the deceased by submitting the death certificate and last held Indian passport of the deceased. Form for death registration is available at the link 'Forms for Consular Services' <https://www.hcilondon.gov.in/page/ss/> and also available at Consular counter.

Next of Kin or Funeral Director/Undertaker (if authorized by next of kin/relative(s) /family member(s)) may complete the formalities.

6. The Petitioner highlights the inconsistency in the application of rules concerning the repatriation of mortal remains. It has been brought to the Court's attention that the practices adopted by other Indian diplomatic missions are more flexible for the repatriation of mortal remains. Notably the Indian High Commission in Singapore allows the “*Export of mortal remains of a deceased Indian national or Indian Origin Foreign National to India*”. There is no requirement for PIO/ OCI card, and the only stipulation is that “*In case of Indian Origin Foreign National, the death certificate has*



to be notarised by Singapore Academy of Law (SAL)”. The relevant guidelines, reads as follows:

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Death of an Indian National

In the unfortunate event of the death of an Indian national in Singapore, please follow the procedure outlined below:

Export of Mortal remains of a Deceased Indian national / Indian origin foreign national to India:

1. Lodge a report with the police.
2. Inform the next of kin (NOK) in India.
3. Take the body to the hospital and obtain a death certificate. **In case of Indian Origin Foreign National, the death certificate has to be notarised by Singapore Academy of Law (SAL).**
4. Contact the Casket Company for embalming the body.
5. Casket Company will liaise with High Commission with all originals and copies of the police report, death certificate, embalming certificate, sealing certificate, HSA letter, NEA letter (National Environmental Agency), medical certificates from hospital.
6. Indian passport and ID (PR/ EP/WP/ S PASS/DP and others) **of the deceased.**
7. Authorization letter from the company of the deceased person to the casket company to be submitted along with a copy.
8. Authorization /No objection letter from the next of kin (NOK) in India who is receiving the body of the deceased mentioning no objection of the casket company in charge to do all the procedures for the export of the body to India.
9. A copy of Indian passport and Aadhar card of the next of kin (NOK) to be submitted along the application.
10. Personal particulars form ([click here](#)) **of the deceased**, to be filled in by the next of kin (NOK)/caretaker.
11. The High Commission of India will attest the death certificate issued by the Singapore authorities, cancel the Indian passport and issues a letter of No Objection which will facilitate the mortal remains of the deceased to be repatriated to India. In case the body is unclaimed, the Singapore police will dispose it off after waiting for a week.
12. Contact any of the airlines flying to India to obtain the airline schedule and book the passage of the casket. Normally the casket is charged by weight by the airlines.
13. **Fee applicable for attestation of notarised death certificate for Indian origin foreign national is S\$ 30/copy in cash only.**

7. Likewise, the Embassy of India at Washington, DC, also allows export of mortal remains of non-Indian passport holders, for a specified fee and does not insist on NOC. This is revealed on the website of Embassy of India, in Washington, DC which read as follows:



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Embassy of India
Washington, D.C., USA

Annexure P-17

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ATTESTATION OF DEATH DOCUMENTS / REGISTRATION OF DEATH OF INDIAN NATIONALS / CARRYING MORTAL REMAINS / CARRYING ASHES

Death related documents for carrying body of the deceased to India will be processed as per the convenience of the applicant, irrespective of consular jurisdiction. To enable processing on priority, the applicant may visit the Embassy in person.

How to Apply in Person:

1.	Download the Miscellaneous Application form and applicant may fill it up carefully and affix his/her photograph on the same. Here the 'applicant' is defined as a person who is a relative/ friend of the deceased or representative of a funeral home, authorized for processing documents.
2.	Current Passport in original of the deceased and a photocopy. Death of Indian nationals need to be registered in the Embassy and passport needs to be cancelled.
3.	Current Passport in original and copy of the applicant. If the documentation is being done through funeral home, the representative may submit further photo board and duly signed authorization letter issued by the funeral home.
4.	Original and photocopy of the document showing valid US Visa Status of the relative or friend who is processing the documents on behalf of the deceased.
5.	Original and photocopy of any of the following documents as proof of residence of the relative/friend who is doing the documentation work: US Driving License, Utility Bill, Lease Agreement, State Identity Card or Mortgage Deed.
6.	Carry all original supporting documents for presentation to the Consular Officer. Photocopies of these documents may be attached with the application. Ensure that photocopies are legible.
7.	To carry Mortal Remains: Original and one copy of the following: (a) Death Certificate, clearly stating cause of death, (b) Embalming Certificate from the concerned local authority, (c) Certificate from the concerned local authority stating that body of the deceased is free from any kind of infection, and (d) Burial/Transit permit. Applicant may also ascertain with concerned Airlines about additional documentary requirements, if any and obtain those from the mortuary/funeral home.
8.	To carry Ashes: Original and one copy of the following: (a) Death Certificate and (b) Cremation Certificate. Applicant may also ascertain with concerned Airlines about additional documentary requirements, if any and obtain those from the mortuary/funeral home.

<http://www.indianembassydc.gov.in/ato/PattB>

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Signature Not Verified

Digitally Signed
By: AKANSHA SINGH
Signing Date: 17.08.2024
10:58:15

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8/11/24, 12:48 PM		Welcome to Embassy of India, Washington D C, USA	
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9.	Fee: If deceased held an Indian passport: Gratis (No Fee). For non-Indian passports: US\$ 40.00 (Forty only) for carrying ashes and US\$ 60.00(Sixty Only) for carrying mortal remains. In addition, a fee of US\$2.00 (Two Only) towards Indian Community Welfare Fund (ICWF). For attestation of Death certificate- US\$10.00(Only) and an additional fee of US\$2.00 (Two Only) towards ICWF and US\$10.00(Only) for each additional copy. The fees may be paid through two separate money order/cashiers' cheque, drawn separately towards fee and ICWF, in favour of Embassy of India, Washington DC.		
10.	Processing Time: Same day, however, if unforeseen technical reasons occur, services can be delayed till those problems are resolved.		

8. The Petitioner argues that this apparent lack of uniformity in the guidelines applied by different Indian diplomatic posts worldwide, results in arbitrary treatment based solely on the geographical location of the death of the deceased person. The Petitioner contends that such a vital consular service, deeply intertwined with human dignity and familial rights, should not variably depend on the deceased's last-held nationality or specific identity documentation such as a PIO/OCI card, especially when similar Indian origins or connections exist. The Petitioner's arguments bring to light the rigidity of the current policy as applied by the High Commission in London, advocating for a more humanitarian approach that considers the deceased's heritage, family wishes, and individual circumstances rather than strict bureaucratic criteria. This case thus not only questions the administrative decision made by the High Commission but also the broader policy consistency and equity in consular services provided by India's foreign missions.

9. The distinctions in guidelines issued by the High Commission of India



in the United Kingdom, compared to those in Singapore and the USA, raise substantial concerns regarding the rationale and uniformity of consular services provided globally. These divergences seemingly lack a clear justification, especially given that the criteria should uniformly reflect the principle of facilitating the dignified repatriation of individuals of Indian origin. The Indian High Commission in London mandates an OCI card for the repatriation of mortal remains, whereas other commissions do not impose such stringent requirements, suggesting arbitrariness in the application of these rules. This discrepancy is particularly striking given that the deceased, Mr. Watts, despite having altered his nationality, indisputably originated from India—a fact supported by his birth and familial ties to Indian citizens. Such an inconsistent application of policy, without transparent, rational justifications, contravene Article 14 of the Constitution of India, which ensures equality before the law and equal protection of the laws within the territory of India. Consequently, the insistence by the High Commission in London on an OCI card, unjustifiably discriminates against the Petitioner’s rights to repatriate his son’s remains in a manner respectful of his familial and cultural ties.

10. Counsel for Respondents have cited a decision of the Supreme Court dated 5th April, 2024 in *Dargah Hazrat Mulla Syed v. Union of India & Anr.*,² where the Supreme Court had declined to entertain a petition under Article 32 of the Constitution, which was invoked, for seeking facilitation of the process of transportation of the mortal remains of Hazrat from Dhaka,

² Writ Petition (Civil) No. 1449/2024



Bangladesh to Prayagraj, India in accordance with his last and final will. In the opinion of the Court, the said case is entirely distinguishable to the facts and contentions of the present case. In *Dargah Hazrat (Supra)*, the Supreme court noted that the Petitioner - “Dargah Hazrat Mulla Syed” did not have any enforceable constitutional right to claim transportation of the mortal remains of the Sufi Sant- Hazrat. In the instant case, as already noticed above, the guidelines of Singapore as well as USA do permit such transportation. The only hurdle in the Petitioner’s way is the manner in which the guidelines have been framed as far as the United Kingdom is concerned.

11. Moreover, from a review of the guidelines issued with regards to transfer of mortal remains, it emerges that there is emphasis on the fact that the deceased should be a person of Indian origin. The fact that late Mr. Watt was a person of Indian Origin has already been confirmed in the present case through documents placed on record.

12. In light of the above, the Court finds it to be a fit case to allow the request of the Petitioner and accordingly, the following directions are issued:

- (i) The communication dated 29th July, 2024 passed by Consular section, High Commission of India, London, refusing to grant a No Objection Certificate for the transfer of mortal remains, is set aside.
- (ii) A mandamus is issued directing Respondent No. 1 to issue a No Objection Certificate to Petitioner’s daughter-in-law/ Ms. Sharon Alphonso for transfer of mortal remains of late Mr. Alfi Richard Watts from United Kingdom to Hyderabad.



13. Mr. Chetan Sharma, learned ASG, representing Union of India, is requested to convey the decision rendered today expeditiously so that necessary formalities can be carried out.

14. With the above directions, the present petition, along with pending application, is disposed of.

SANJEEV NARULA, J

AUGUST 16, 2024
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