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

+ **W.P.(C) 12401/2024, CM APPL. 51582/2024**

RANDA CHEHAB

.....Petitioner

Through: **Mr. Anand Duggal and Ms. Inderjot
Kaur, Advocates.**

versus

UNION OF INDIA THROUGH SECRETARY & ORS.

.....Respondents

Through: **Mr. Shoumendu Mukherji, SPC with
Ms. Megha Sharma, Advocate.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
05.09.2024

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1. The Petitioner, a foreign national of the United States of America, has filed yet another petition before this Court, this time assailing the Office Memorandum dated 02nd July, 2024 passed by Respondent No. 2, deciding Petitioner's representation seeking review of the blacklisting order.

2. In order to understand the context of Petitioner's repeated efforts in seeking directions to the Respondents to enter into the country, the previous litigation initiated by her must be briefly noted.

3 The Petitioner came to India on a valid visa, but was deported by Bureau of Immigration from Trivandrum Airport, Kerala on 28th November, 2022. Aggrieved by the said deportation, the Petitioner filed a writ petition bearing No. W.P.(C) 1250/2023, challenging her deportation. In the said



proceedings, she submitted that she is a professional yoga teacher holding Master's Degree in Global Health from North Western University, USA and also asserting the fact that she is a licensed Physician Assistant in Montana, USA. On the basis of these credentials, the Petitioner also highlighted that she has been visiting India on tourist visa and also obtained a long stay multi-entry tourist visa from 31st March, 2017 to 30th March, 2027. Subsequently, she also obtained a business visa valid from 20th June, 2019 to 19th June, 2024. Taking note of the status report filed by the Bureau of Immigration, highlighting that Petitioner had been blacklisted at the behest of Foreigners Regional Registration Office, Trivandrum, on 18th December, 2023, the Court declined to exercise jurisdiction under Article 226 of the Constitution of India, 1950. The reasoning can be discerned from the following extracts from the said judgment:

"11. The Status Report reveals that the name of the Petitioner has been blacklisted at the behest of Foreigners Regional Registration Office (FRRO), Trivandrum vide Reference No. 4/FRRO/BOI/TVM/2020(2)-1086 dated 11.08.2020 as she was involved in public fund collection while visiting on a business visa which is not permitted. It is stated that as of today there is an adverse entry report against the Petitioner.

12. It is stated that as per the General Policy Guidelines Relating to Indian Visa, when a person is granted a business visa, the purpose is to attend business meetings and technical meetings and funds cannot be collected for the said purpose.

13. Heard learned Counsel for the parties and perused the material on record.

14. Learned Counsel for the Petitioner states that the Petitioner has been involved in charitable activities and is collecting public funds for the purpose of a charity, and this cannot be said to be unlawful. It is stated that the Petitioner has rendered yeomen's services when cyclone Amphan struck in eastern India and she has since been closely associated with various charitable activities. It is, therefore, stated that in this backdrop, it is not



wrong to collect funds. Learned Counsel for the Petitioner states that the Petitioner holds a valid tourist visa and as a tourist visa holder, she can be permitted to come to India. It is stated that the Petitioner has come to India numerous times and the reason for blacklisting is completely arbitrary.

15. On the other hand, learned Counsel for the Respondent relies on Section 3 of the Foreigners Act which gives the power to the Central Government to make provisions either generally or for all foreigners prohibiting, regulating or restricting the entry of foreigners into India or their departure from India.

16. The short question which arises for consideration is whether the violation of the conditions of the business visa can be a sufficient reason for deportation and blacklisting of the Petitioner.

17. The Petitioner is a foreign citizen. The business visa as per the FAQs on business visa is granted to foreigners for the following purposes:-

“A Business visa may be granted to a foreigner for the following purposes:-

(i) Foreign nationals who wish to visit India to establish industrial/business venture or to explore possibilities to set up industrial/business venture in India.

(ii) Foreign nationals coming to India to purchase/sell industrial products or commercial products or consumer durables.

(iii) Foreign nationals coming to India for technical meetings/discussions, attending Board meetings or general meetings for providing business services support.

(iv) Foreign nationals coming to India for recruitment of manpower.

(v) Foreign nationals who are partners in the business and/or functioning as Directors of the company.

(vi) Foreign nationals coming to India for consultations regarding exhibitions or for participation in exhibitions, trade fairs, business fairs etc.

(vii) Foreign buyers who come to transact business with suppliers/potential suppliers at locations in India, to evaluate or monitor quality,



give specifications, place orders, negotiate further supplies etc., relating to goods or services procured from India.

(viii) Foreign experts/specialists on a visit of short duration in connection with an ongoing project with the objective of monitoring the progress of the work, conducting meetings with Indian customers and/or to provide technical guidance.

(ix) Foreign nationals coming to India for pre-sales or post-sales activity not amounting to actual execution of any contract or project.

(x) Foreign trainees of multinational companies/corporate houses coming for in-house training in the regional hubs of the concerned company located in India.

(xi) Foreign students sponsored by AIESEC for internship on project based work in companies/industries.

(xii) Foreign nationals coming as tour conductors and travel agents and I or conducting business tours of foreigners or business relating to it, etc.”

18. Collecting money ostensibly for charitable activity is not permitted when a foreigners comes to India on a business visa. Since the Petitioner has admittedly acted contrary to what is permitted, the decision taken by the authorities to blacklist the Petitioner cannot be said to arbitrary and as such requiring any interference under Article 226 of the Constitution of India.

19. A Coordinate Bench of this Court in *Kasha Elizabeth Van de v. Ministry of Home Affairs & Ors.* 2018 SCC OnLine Del 9920, has observed as under:-

“14. Thus, the decision of the respondents to deny entry to the petitioner cannot be stated to be arbitrary or unreasonable. Lastly, it is also alleged that the petitioner has violated the terms of a visa. Admittedly, the petitioner had floated a Non-Government Organization (NGO) and involved in various activities undertaken by the said NGO 'PondiART'. It is also pointed out that the said NGO invites donations for funding its activities. It is also alleged that some of the photography exhibitions organized by the petitioner under the banner of PondiART have political overtones. This Court is not called upon to examine whether the allegation that the activities conducted by the petitioner have any political overtones is correct. Concededly, the petitioner had been



carrying out various activities under the banner PondiART and this was not the purpose for which Visa was granted to the petitioner. The business Visa entitled the petitioner to visit India for commercial purpose. The petitioner was also not permitted to set up any proprietorship firm or partnership firm in India. Thus, there can be little doubt that the petitioner had, in fact, violated the Visa conditions by engaging in activities that did not strictly fall within the scope of the activities for which the Visa had been granted.”

20. This Court in the said case has upheld the decision of the FRRO to blacklist the Petitioner therein by refusing to interfere under Article 226 of the Constitution of India. Similarly, this Court is also not inclined to interfere with the said decision of blacklisting of the Petitioner herein.

21. The Apex Court in Louis De Raedt v. Union of India, **1991 (3) SCC 544**, while explaining the applications of Fundamental Rights to foreigners visiting India has observed as under:-

“13. The next point taken on behalf of the petitioners, that the foreigners also enjoy some fundamental rights under the Constitution of this country, is also of not much help to them. The fundamental right of the foreigner is confined to Article 21 for life and liberty and does not include the right to reside and settle in this country, as mentioned in Article 19(1)(e), which is applicable only to the citizens of this country. It was held by the Constitution Bench in Hans Muller of Nuremburg v. Superintendent, Presidency Jail, Calcutta [(1955) 1 SCR 1284: AIR 1955 SC 367: 1955 Cri LJ 8 7 6] that the power of the government in India to expel foreigners is absolute and unlimited and there is no provision in the Constitution fettering this discretion. It was pointed out that the legal position on this aspect is not uniform in all the countries but so far the law which operates in India is concerned, the executive government has unrestricted right to expel a foreigner. So far the right to be heard is concerned, there cannot be any hard and fast rule about the manner in which a person concerned has to be given an opportunity to place his case and it is not claimed that if the authority concerned had served a notice before passing the impugned order, the petitioners could have produced some relevant material in support of their claim of acquisition of citizenship, which they failed to do in the absence of a notice.”

22. It is well settled that a Court can exercise its jurisdiction under Article 226 of the Constitution of India only where there is a violation of a right. In the absence of any right, a writ cannot be issued. Since the Petitioner has not been able to establish violation of any rights granted to the Petitioner,



this Court is not inclined to exercise its jurisdiction under Article 226 of the Constitution of India to interfere with the decision taken by the authorities.

23. The writ petition is dismissed along with pending application(s), if any.”

[Emphasis Supplied]

4. Aggrieved by the afore-noted order, Petitioner filed a letters patent appeal (LPA 105/2024) and on 08th February, 2024, the following order was passed:

“1. Present appeal has been filed by the Appellant challenging the judgment dated 18th December, 2023 passed by the Learned Single Judge of this Court in WP (C) 1250/2023.

2. After some arguments, it transpires that when the petitioner had drafted the underlying writ petition, the petitioner was not aware of the reason for her deportation. Now, in the status report filed by the respondent, the reason for Petitioner's deportation has been clearly spelt out.

3. Consequently, this Court disposes of the present appeal by giving liberty to the petitioner to file a detailed representation with the respondent No. 4 within four weeks. In the event, such a representation is filed, the same is directed to be disposed of as expeditiously as possible by way of a reasoned order in accordance with law.

4. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of the parties are left open.

5. With the aforesaid direction, the present appeal stands disposed of.”

5. Subsequently, on an application filed by the Petitioner (CM APPL. 38782/2024), the following order was passed on 12th July, 2024:

“1. Today learned counsel for the respondent has handed over a photocopy of the Office Memorandum dated 02nd July, 2024. The same is taken on record.

2. Learned counsel for the applicant prays for withdrawal of the present application with liberty to challenge the said Memorandum dated 02nd July, 2024.

3. Giving liberty to the appellant to challenge the Office Memorandum dated 02nd July, 2024, present application is disposed of. The rights and contentions of all the parties are left open.”



6. In view of the liberty granted by the Appellate Court, the Petitioner filed the instant petition challenging the Office Memorandum dated 02nd July, 2024, which reads as follows:

*“No. 18017/22/2023-F. V
Government of India
Ministry of Home Affairs
Foreigners Division*

*Major Dhyan Chand National Stadium,
India Gate Circle, New Delhi,
Dated 2nd July. 2024.*

OFFICE MEMORANDUM

Subject: LPA No. 105/2024 before Hon'ble High Court of Delhi in case of Ms. Randa Chehab v/s Union of India & Ors. - Reg.

The undersigned is directed to refer to E-mail dated 05.06.2024 received from Bureau of Immigration forwarding therewith a copy of Memorandum No. 8/FRRO/Bol/TVM/2024- 1479 dated 04.06.2024 along with Court Order dated 22.05.2024 in the above matter.

2. The matter has been examined. In compliance of Hon'ble Court order dated 22.05.2024, the case of Ms. Randa Chehab has been considered by the BL review committee. It has been decided to retain the name of foreign national in Central Blacklist. This may be appropriately brought to the notice of the Hon'ble Court.

3. This issues with the approval of the Competent Authority.

*Sd/-
(Puneet Sharma)
Section Officer (F-V)
E-mail: Puneet.sharma94@nic.in”*

7. In the above background, counsel for Petitioner submits that the Office Memorandum is not a reasoned order and, therefore, is not in compliance with the order dated 08th February, 2024. He reasserts Petitioner's credentials and her past visits into the country and that the



Petitioner has not violated any terms and conditions of her visa as the purpose of visit was consistent with the activities permitted under a business visa. He further argues that Respondents have not provided any justification of the Petitioner being a threat to the national security or public order which would warrant her blacklisting and deportation. In absence of any such compelling reasons, the impugned action of the Respondents is unreasonable, arbitrary and violative of the principles of natural justice, hence, the impugned decision through the Office Memorandum is liable to be set aside. Reliance is placed on the judgment of this Court in *Mohammad Abdul Moyeed v. Union of India & Ors.*¹

8. The Court has considered the afore-noted facts and contentions, but remains unpersuaded. The Court finds that there is essentially no difference in the reasoning of Petitioner's deportation and the basis for her blacklisting. Through the Office Memorandum dated 02nd July, 2024, Respondents have decided Petitioner's representation, which she had filed in view of the liberty granted by the Division Bench through order dated 12th July, 2024.

9. The germane issue in the present petition pertains to the deportation and blacklisting of the Petitioner and reasons thereof, which have already been judicially scrutinized in the judgment dated 18th December, 2024 passed in W.P.(C) 1250/2023 extracted above. The Petitioner was found to be involved in public fund collection while visiting on her business visa which is not permissible. The Court noted the business visa FAQs and observed that collecting money in furtherance of a charitable purpose is not permitted when the foreigners come to India on a business visa. The Court

¹ 2018:DHC:4394



observed that since the Petitioner had admitted contrary to what was permitted, the decision taken by the Respondent authorities to blacklist the Petitioner, cannot be said to be arbitrary. The subsequent developments are Petitioner's effort to convince the Respondent authorities to review their decision, which has been declined by the impugned Office Memorandum. In the present petition, Petitioner continues to deny the allegations made against her, however, that would not, in any way, change the outcome of the decision as the said denial was also taken note of in the previous decision but not found to be credible enough for a judicial intervention under Article 226 of the Constitution.

10. In light of the above, in the opinion of the Court Petitioner's grievance has already been considered and rejected by the Court and there is no merit in the present petition. The impugned decision may not be very elaborate, however, it does not discern the fact that the reason for rejecting the Petitioner's request remains the same. The Petitioner's right to invoke any fundamental rights against her blacklisting stands constrained in the light of the decision rendered by the Supreme Court in *Hans Muller of Nuremburg v. Superintendent, Presidency Jail, Calcutta & Ors.*,² observing that the power of Central Government to expel a foreigner is absolute and unlimited and there is no provision in the Constitution, fettering this discretion. In the context of foreigners seeking entry into India, the power of the civil authorities was reiterated by the High Court of Bombay in *Joshua Sadagursky v. Union of India*³ observing that Section 3 of the Foreigner's

² 1955 SCC OnLine SC 35.

³ 2019 SCC OnLine Bom 1831



Act, 1946 and clause (3) the Foreigners Order, 1948, clarifies that the civil authorities may refuse entry to a person who is not a citizen of India. Hence, the Petitioner being an American national, can be refused entry into India by the Central Government, while exercising their power under Section 3(2)(c) of the Foreigners Act.

11. Accordingly, the present petition along with pending applications, if any, is disposed of.

SANJEEV NARULA, J

SEPTEMBER 5, 2024

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