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

+ **W.P.(C) 12942/2024, CM APPL. 54019/2024**

DORNALA DEENAMMA

.....Petitioner

Through: Mr. Ivo Manuel Simon Dcosta,
Advocate.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC
with Mr. Kushagra Kumar and
Mr. Abhinav Bhardwaj, Advocates
for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **18.09.2024**

1. The Petitioner, an Indian citizen, urgently seeks the transfer of the mortal remains of her late son - Mr. Arthur Paul Saagar (formerly Arthur Thallapally). The relevant factual background to the instant petition is summarised as follows:

1.1. Late Mr. Arthur Paul Saagar was born on 4th June, 1970 in Warangal, India. He completed his schooling and undergraduate education in India. Further, he also held an Indian Passport, a fact substantiated by the copy of the passport, affirming his Indian origin.

1.2. Late Mr. Arthur got married in India to Marie Jeanine Thallapally, who was then also an Indian citizen, under the Special Marriage Act, 1954. The marriage certificate is also annexed with the petition.



1.3. Late Mr. Arthur moved to United Kingdom in the year 1995 for work, and thereafter obtained British Citizenship on 28th October, 2004. He however did not apply for an Overseas Citizen of India (OCI) card before his death.

1.4. Late Mr. Arthur unfortunately passed away on 27th August, 2024 at the age of 54 years. Mr. Arthur's dying wish, being a Christian by religion, was to be buried in India in his family's grave alongside his ancestors, where generations of his family had lived. In such circumstances, his family and mother now wish to transfer his mortal remains to India so they may be at peace knowing he is at home, and so that they can visit his grave in accordance with family tradition.

1.5. Late Mr. Arthur's son, Leon, made a representation to the Indian High Commission in London requesting for a 'No Objection Certificate' (NOC) to be granted for repatriation of the mortal remains of his father, however, such request has been denied. He has received a response from the Indian High Commission on 12th September, 2024, stating that *"NOC for transportation of mortal remains can be issued only to Indian nationals or to those foreign nationals who hold an OCI card"*.

2. Having considered the foregoing, the Court notes that this precise question has been considered by this Court in W.P.(C) 11192/2024 decided through judgment dated 16th August, 2024. The Court had examined the provisions relating to repatriation of mortal remains and concluded that the guidelines issued by the High Commission of India, United Kingdom, are not uniform in comparison with the consular services provided by India's foreign missions globally. Accordingly, it was directed that NOC be granted for transfer of mortal remains to India. In the opinion of the Court, the



aforenoted reasoning shall apply *mutatis mutandis* in the present case as well.

3. Thus, having regard to the aforenoted facts and circumstances, in the opinion of the Court, the fact that Late Mr. Arthur had altered his nationality does not dilute the fact that he originated from India, a fact duly supported by his birth and familial ties to Indian Citizens. Thus, the refusal on the part of the High Commission of India in London for issuing the NOC is contravenes Article 14 of the Constitution of India as it unjustifiably discriminates against the Petitioner's rights to repatriate her son's mortal remains in a manner respectable for their familial and cultural ties.

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

(i) The communication dated 12th September, 2024 issued by the Consular Section, High Commission of India in London, to the Petitioner's grandson, Mr. Leon Thallapally, is set aside.

(ii) A mandamus is issued directing Respondent No. 1—Ministry of External Affairs to issue a No Objection Certificate to the Petitioner's grandson for the transfer the mortal remains of the Petitioner's deceased son, Late Mr. Arthur Paul Saagar (formerly Arthur Thallapally) from the United Kingdom to Warangal, Telangana, India.

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

SANJEEV NARULA, J

SEPTEMBER 18, 2024

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