

**In The High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 391 of 2025

**Mohammad Umar Farooque & Anr.
-versus
Union of India & Ors.**

**Mr. Sankar Nath Mukherjee.
Mr. Niraj Gupta.
Mr. Saikat Pal.
Ms. Manisha Paswan.
...For the Petitioners.**

**Mr. Ashok Kumar Chakraborty. Ld. ASGI
Mr. Kumar Jyoti Tiwari. Sr. Adv.
Mrs. Sarda Sha.
... For the respondent nos. 1 to 3.**

**Mr. Biswabrata Basu Mallick. Ld. AGP
Mr. Sayan Ganguly.
... For the State.**

1. The petitioner No. 1 is an Indian citizen and the petitioner No. 2 is a citizen of Algeria.
2. The petitioners claim that they intend to get married and have filed application before the Marriage Registrar for registering their marriage under the provisions of the Special Marriage Act, 1954.
3. The petitioner No. 2 came to India on the strength of a tourist visa which was valid till 6th January, 2025.
4. The application made by the petitioner No. 2 seeking extension of her visa, stood cancelled with the remark that the tourist visa is not extendable and the applicant has been directed to follow the visa norms and exit before the stay stipulation.

5. Prayer has been made to permit the petitioner No. 2 to stay in India till registration of the marriage between the parties.
6. The learned advocate for the petitioners relies upon the judgment and order dated 4th December, 2015 passed by the Delhi High Court in the matter of **Svetlana Kazankina and Ors. -Vs- Union of India and Anr.** reported in **2015 SCC Online Del 13896** and submits that the prayer of the petitioner No. 2 for extension of visa may be considered by the authority.
7. The learned ASGI opposes the prayer of the petitioners. It has been submitted that the petitioner No. 2 visited India under a tourist visa and after rejection of her prayer for extension of visa there is no provision for further reconsideration of such prayer.
8. Attention of the Court has been drawn to Regulation 3B of the Foreigners Order, 1948 framed under the Foreigners Act, 1946 which mentions the requirement of holding a valid passport or other valid travel document while living in India.
9. It specifically mentions that save and otherwise provided in terms of this Order or Rule 4 of the Passport (Entry into India) Rules, 1950, a foreigner shall hold a valid passport or other valid travel document relating to passport, as the case may be, while living in India.
10. Reference has also been made to the definition 'Tourist' as appearing in the Registration of Foreigners Rules, 1992 which specifically defines tourist as a foreigner having no residence or occupation in India whose stay in India does not ordinarily exceed six months, who has no other object in visiting India than recreation, sightseeing or attending in the representative capacity meetings

conveyed by the Government of India or international bodies or any other meeting or conference cleared by the Government of India.

11. Admittedly, the petitioner No. 2 visited India with a tourist visa and she did not have any other object to visit India. During her stay in India she claims to have contracted marriage with the petitioner No. 1. There is, however, no document in support of marriage of the parties annexed to the writ petition, save and except, certain photographs.
12. Upon hearing the parties and on perusal of the documents annexed to the writ petition, the Court is not inclined to grant relief to the petitioner No. 2.
13. It was at her own risk and peril that the petitioner No. 2 got the courage to stay back in India despite her visa period expiring yesterday. Had the petitioner any intension to get married to an Indian citizen in India, then she ought to have take necessary step within the validity period of her visa. On the plea of contracting marriage she cannot be permitted to stay back in India without any valid documents.
14. The petitioner no. 2 not being a citizen of India the writ petition at her instance under Article 226 of the Constitution of India cannot be held to be maintainable by her.
15. The prayer for extension of the visa has already been rejected by the authority. The parties will take steps strictly in accordance with law.
16. The writ petition fails and is hereby dismissed.
17. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)