

24-01-2025
Item No.5
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.30428 of 2024
Saikat Basu
-vs-
The Union of India & Ors.

Mr. Bikash Ranjan Bhattacharya, sr. adv.
Mr. Uday Shankar Chatterjee, adv.
Mr. Vishak Bhattacharya, adv.
Mr. Dipanjan Roy, adv.
Ms. Ruchira Chatterjee, adv.
Ms. Biyanka Bhattacharya, adv.
Mr. Sandipan Samanta, adv.
Mr. Shubhasish Bhowmick, adv.
Mr. Shiladitya Rakshit, adv. ...for the petitioner

Mr. Ashok Kumar Chakrabarti, ASGI
Mr. Kumar Jyoti Tewari, sr. adv.
Mr. Prolay Bhattacharya, adv.
...for the Union of India

1. The petitioner is the father of a 4-year-old male child. The relationship between the petitioner and his wife is acrimonious. The petitioner is an Indian national and his wife is a citizen of Russia. An issue with regard to the custody of the minor child is pending consideration before the Hon'ble Supreme Court.
2. The Hon'ble Supreme Court was pleased to direct the parties to approach the mediation centre for resolution of their matrimonial dispute. The court took note of the interim mediation report dated November 11, 2024 filed by the Supreme Court Mediation Centre that there is every possibility of settlement of the matrimonial discord. The matter is returnable before the

Supreme Court on January 28, 2025.

3. In the meantime, the Indian passport of the minor child of the petitioner, which was valid from March 11 2021 to March 10, 2026, has been sought to be revoked by the Deputy Passport Officer on account of consequent acquisition of the Russian nationality and passport by the minor son on January 15, 2024.
4. The petitioner has been asked to show cause as to why the Indian passport issued in favour of his minor child should not be revoked under section 10(3)(a) of the Passports Act, 1967. The petitioner has been given 21 days to submit his reply to the show cause. The petitioner has duly submitted his reply on December 15, 2024. The authority is yet to take a decision in the matter.
5. The petitioner is apprehensive that if the authority revokes the Indian passport of his son, then it may not be possible for him to keep the child in his custody and his child may lose the Indian citizenship.
6. The Hon'ble Supreme Court on July 13, 2023 in Writ Petition (Criminal) No.129/2023 directed that the child would remain in exclusive custody of the mother from 4 p.m. to 8 p.m. and that thereafter the father would take the child with him and in the night also the child would continue to stay with him. The said order is in force till date.
7. If in the meantime the passport authority opines of revoking the Indian passport of the minor child of the petitioner, then the order passed by the Hon'ble Supreme Court would be rendered nugatory and unworkable.

8. Learned Additional Solicitor General of India representing the Union of India, on the other hand, submits that the authority took steps strictly in accordance with the relevant provisions of law. It has been contended that as the petitioner has submitted to the jurisdiction of the passport officer and has offered his reply to the show cause, accordingly, the writ petition will not be maintainable.
9. I have heard the respective submissions advanced on behalf of both the parties.
10. The petitioner appears to have replied to the show cause notice. The Deputy Passport Officer is yet to take a decision in the matter.
11. Hence, the Deputy Passport Officer is directed to deal with the petitioner's reply in accordance with law keeping in view the order passed by the Hon'ble Supreme Court in the writ petition filed by the wife of the petitioner herein.
12. The Deputy Passport Officer shall also keep in mind that the issue of custody of the child is still pending consideration before the Supreme Court and passing any order in connection with the passport of the minor child may infringe the right of the parties to the proceeding and act as an impediment in proper adjudication of the *lis* pending before the Hon'ble Supreme Court.
13. As the matter pending before the Hon'ble Supreme Court is scheduled to appear for consideration on January 28, 2025, liberty is given to the petitioner to bring the aforesaid fact to the notice of the Hon'ble Supreme Court.
14. The writ petition is disposed of.
15. As no affidavit has been called for, the allegations contained in the writ petition are deemed not to

have been admitted by the respondents.

16. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
17. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]