



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 18905 OF 2024

Mayur Bhagunath Antre

... Petitioner

Versus

Union of India, through the Ministry of External
Affairs, Govt. of India & Ors.

... Respondents

Mr. Vishal Kanade a/w. Mr. Raviraj Paramane, Mr. Deva L. Shinde, Mr. Vaibhav Gaikwad, i/b. Raviraj Paramane for the petitioner.

Mr. Ashok R. Varma a/w. Mr. Vineet Jain and Mr. A.A. Ansari for respondent no. 1/UOI.

Mr. Abhaysinh Bhosle a/w. Mr. Krishna Rodge, Mr. Shardul Shinde and Mr. Jatin Adhav for respondent no. 3.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE: 10 February, 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

“a) That this Hon’ble Court be pleased to issue a writ of mandamus and/or any other appropriate writ, order and/or direction in the nature of mandamus thereby directing respondent no. 1 to decide the application filed by the petitioner for renewal of the Passport of the son of the petitioner.

b) This Hon’ble Court be pleased to issue a writ of mandamus and/or any other appropriate writ, order and/or direction in the nature of mandamus thereby directing respondent no. 1 and 2 not to proceed with the passport renewal of son of the petitioner at Dubai, UAE, in absence of consent of the petitioner;

c) Interim/ad-interim order in terms of prayer clause (c) above be granted.”

2. On the earlier occasion we have heard learned counsel for the parties, when we passed the following order:

“1. Leave to amend to implead an appropriate passport authority as a party respondent. Let the amendment be carried out forthwith.

2. This petition is filed under Article 226 of the Constitution of India praying for a direction to the Passport Authority to decide the application filed by the petitioner for renewal of passport of his son-Avneesh, who is stated to be with his mother in Dubai.

3. It is the petitioner's case that respondent no. 3-mother, who claims to have obtained divorce on the order passed by the Dubai Court, has also applied for passport of her son to respondent no. 2-Consulate General of India at Dubai. It is the petitioner's contention that although there is a dispute between the petitioner and respondent no. 3-wife, nonetheless their son cannot stay without a valid passport in Dubai and it is for such purpose, an application for passport was made by the petitioner.

4. Mr. Varma waives service for respondent no. 1 and for added respondent no. 4.

5. In this view of the matter, we are inclined to pass an order that instructions be furnished to Mr. Varma, learned counsel for respondent nos. 1 and 4 in regard to the status of the passport application of Avneesh which is pending with respondent no. 2-Consulate General of India at Dubai and inform the Court of the status and/or further steps which would be required to be taken on such application as filed by respondent no. 3-mother, as also, the petitioner's domestic application and subject matter of the present petition.

6. In the meantime, if so desired, reply affidavit be placed on record by the respondent on or before the adjourned date of hearing and copy of the same be furnished to the advocate for the petitioner.

7. Permission to the advocate for the petitioner to serve respondent no. 3 through the Consulate of United Arab Emirates. Hamdast permitted.

8. Stand over to **10 February, 2025 (H.O.B.).”**

3. Mr. Varma, learned counsel for respondent nos. 1 and 2 has placed on record a communication received by him from respondent no. 2 to the effect that the application of passport of Master Avneesh Mayur Antre filed by his mother - Disha Gaikwad was processed and keeping in view the education, health and social welfare of the child, Passport No. C6719584 was granted

for a period of one year from 17 January, 2025 till 16 January, 2026 on humanitarian grounds for preventing the risk of making the child an illegal immigrant and to provide an opportunity to the mother-Disha Gaikwad to regularize the stay of her son Master Avneesh in UAE.

4. We do not find any infirmity in the decision as taken by respondent no. 2. In present proceedings the concerns sought to be raised by the petitioner to contend that the petitioner has become entitled to apply for passport of son Avneesh is in the light of the matrimonial issues between the petitioner and respondent no. 3- Disha, certainly cannot be gone into.

5. A reply affidavit has been filed by the mother - Disha Gaikwad, duly affirmed before the Consulate General of India, Dubai on 3 February, 2025 wherein she has stated that there is a decree of divorce passed by the Dubai Cassation Court (Supreme Court of Dubai) on the ground of desertion, cruelty and torture under which the custody of child (Master Avneesh) was granted to her. She has also stated that earlier the petitioner was arrested under the orders passed by the Dubai Court dated 4 May, 2025 for non-payment of alimony and was subsequently released on bail. She states that after the petitioner was released on bail, he fled from Dubai. She has also stated that currently there is an arrest order against the petitioner in UAE, for not complying of the Court's order. She has further stated that on 11 December, 2024, the petitioner was also convicted by the Criminal Court at

Dubai for insulting and harassment of respondent no. 3 with a fine of AED 10,000 (INR 260,000) and confiscation of devices used in the crime. A copy of the order is annexed by her to the affidavit. It is on such backdrop, learned counsel for respondent no. 3 has contended that the petitioner has no legal right whatsoever to assert any such contentions as urged in the present petition.

6. Considering the aforesaid facts, the petitioner is asserting rights to apply for renewal of the passport of Master Avneesh, who is in the custody of respondent no. 3-mother, against the rights of respondent No.3-mother-Disha Gaikwad, primarily, on the ground that the son Avneesh is not safe in the custody of respondent no. 3-mother and hence the petitioner should be recognized to be the applicant of Master Avneesh 's passport. Mr. Kanade, learned counsel for the petitioner strenuously urged before us that respondent no. 3 is ill-treating Avneesh and therefore, it was necessary that the petitioner becomes the applicant of the passport of Avneesh so that he can take further appropriate steps in the interest of Avneesh.

7. Such contention as urged by Mr. Kanade was vehemently opposed on behalf of respondent no. 3 and on affidavit. As it was informed that respondent no. 3-Disha Gaikwad and Master Avneesh are ready to appear through Video Conferencing and that the Court can interact with them, we accordingly arranged for Video Conferencing with respondent no. 3-Disha

and Master Avneesh at 4.30 p.m. today. The hearing was attended by all the learned counsel. Both respondent no. 3-Disha and Avneesh interacted with us. We have also considered the version of the child, who appears to be happy in the company of his mother. From our interview and the different questions which we have posed to the mother-Disha and the child, we cannot accept the petitioner's contention that the master Avneesh is in any manner tortured by his mother.

8. In this view of the matter, we are not inclined to exercise our writ jurisdiction in the present proceedings. The petition is accordingly dismissed. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)