

Tikam

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1629 OF 2024

Dinesh Agarwal

...Petitioner

Versus

Bureau of Immigration Ministry of
Home Affairs

...Respondent

Mr. Devashish Godbole a/w. Prasad Nagargoje for the
Petitioner.

Mr. D.A. Dube a/w. Upendra Lokegaonkar for Respondent
Nos. 1 and 3.

Mr. A.R. Bamne i/b. M/s. A.R. Bamne & Co. for Respondent
No.2

CORAM M.S. Sonak &
 Jitendra Jain, JJ.

DATED: 6 March 2025

PC:-

1. Heard Mr. Devashish Godbole, learned counsel for the petitioner, Mr. Dube, learned counsel for Respondent Nos.1 and 3 and Mr. Bamne, learned counsel for Respondent No.2.
2. The petitioner seeks the following substantive reliefs in this petition:

“a) that this Hon’ble Court be pleased to declare that the Office Memorandum No. 25016/10/2017-Imm (Pt.)- Consolidated Guidelines for issuance of LOOK OUT CIRCULARS (LOC) in respect of Indian Citizens and foreigners issued by the Respondent No.1 The Ministry of Home Affairs Government of India is ultra vires, unconstitutional and void ab-initio;

b) that this Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction calling for the papers and proceedings of the Petitioner's case leading to issuance of Look Out Circular against the Petitioner and after considering the legality, veracity and correctness of the same, this Hon'ble Court be pleased to quash and set aside the same;

c) that this Hon'ble Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order or direction, restraining the Respondents themselves, their servants, officers, agents, successors in office and/or assigns from in any manner (directly and/or indirectly) from acting upon or in furtherance of the Look Out Circular issued against the Petitioner."

3. Insofar as prayer clause (a) is concerned, Mr. Godbole refers to the decision of the Coordinate Bench in ***Viraj Chetan Shah v. Union of India and Anr. in Writ Petition No. 719 of 2019 disposed of on 23 April 2024*** and points out that certain crucial clauses of the of the impugned OM have been quashed and set aside by this Court.

4. Paragraph 195 of ***Viraj Chetan Shah (supra.)***, reads as follows:

"(a) Clause 8(b) (xv) of the 2010 amended OM (equivalent to Clause 6(B) (xv) of the 2021 consolidated OM) which includes the Chairmen, Managing Directors and Chief Executive Officers of all public sector banks as authorities who may request the issuance of a Look Out Circular is quashed.

(b) All the LOCs are quashed and set aside.

(c) The Bureau of Immigration will ignore and not act upon any LOCs issued by any public sector banks. All databases will be updated accordingly. We do not expect the public sector banks to do this, and therefore direct the Bureau of Immigration or MHA to do the needful.

(d) All authorities at all ports of embarkation will be informed and apprised accordingly."

5. Thus, in terms of the decision of the Co-ordinate Bench in the case the ***Viraj Chetan Shah (supra.)*** Clause 8(b)(xv) of

the 2010 amended OM (equivalent to Clause 6 (B)(xv) of the 2021 consolidated OM) which includes the Chairmen, Managing Directors and Chief Executive Officers of all public sector banks as authorities who may request the issuance of a Look Out Circular stands quashed and set aside. To that extent relief in terms of prayer clause (a) of this petition stands worked out.

6. Learned counsel for the respondent accepts that since the impugned LOC was issued based upon the above referred office memorandum and since, crucial portion of the OM has been set aside, the impugned LOC will not survive. Accordingly, the impugned LOC is quashed and set aside.

7. Upon quashing and setting aside the impugned LOC, reliefs in terms of prayer clauses (b) and (c) of this petition stands granted.

8. Learned counsel for the respondent, however, placed before us the Hon'ble Supreme Court's order dated 12 August 2024 made in the Special Leave Petition Nos. 17194-17230/2023 challenging the Co-ordinate Benches' decision in the case of **Viraj Chetan Shah (supra.)**

9. The Hon'ble Supreme Court's order dated 12 August 2023 reads as following :

“ Issue notice to the respondents.

Issue notice on the interim stay also.

Learned counsel, Mr. Manish Tiwari and Mr. Dharmesh S. Joshi accept notice for the respondents-caveators.

Pending consideration of these Special Leave Petitions on the interim stay, the private respondents/ writ petitioners before the High Court shall seek permission from the High Court in the event they wish to travel abroad.

It is needless to observe that if such an application is filed before the High Court in the disposed of writ petitions, the same shall be considered and disposed of expeditiously.

The pendency of these Special Leave Petition before this Court would not come in the way of the petitioners herein formulating a fresh Office Memorandum (OM), if found necessary.

List on 14.10.2024.”

10. Learned counsel for the respondent pointed out that even though this petition is being disposed of, the petitioner in terms of Hon'ble Supreme Court's order dated 12 August, 2024 will have to apply to this Court should the petitioner wish to travel abroad.

11. Accordingly, we clarify that even though we are disposing of this petition, the petitioner will have to abide by the directions issued by the Hon'ble Supreme Court in its order dated 12 August 2024.

12. With the above clarification, we dispose of this petition. No costs to order.

13. All concerned to act upon an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)