



N THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 805 OF 2024

Bhimrao Marotirao Ambalkar
Age – 65 years, Occ. - Retired,
Permanent R/At : Flat No.6,
Shubham Apartment, Ranpise Nagar,
Akola – 444001.

... **PETITIONER**

...**VERSUS**...

1. Regional Passport Office, Nagpur
Having its Office at – CGO Complex B-Block
Seminary Hills Road, Seminary Hills,
Nagpur – 440006.
2. Ministry of External Affairs
Through Union of India,
Headquarter at South Block,
Secretariat Building,
Raisina Hill, New Delhi, Delhi, India.
[Notice to be Served through the Learned
Standing Counsel Union of India]
3. State of Maharashtra
Through Hiwarkhed Police Station,
Akola.

... **RESPONDENTS**

Mr. S. L. Bhojwani, Advocate for the Petitioner.
Mr. N. S. Deshpande, D.S.G.I, for Respondent Nos.1 and 2.
Mr. S.S. Doifode, A.P.P. for Respondent No.3.

CORAM : **NITIN W. SAMBRE AND**
 MRS. VRUSHALI V. JOSHI, JJ.

JUDGMENT RESERVED ON : 15.01.2025.

JUDGMENT PRONOUNCED ON : 04.02.2025

JUDGMENT (PER : MRS. VRUSHALI V. JOSHI, J.):-

1. **Rule.** Rule is made returnable forthwith. Heard finally by
consent of learned Counsel appearing for the parties.

2. The petitioner is seeking directions to the respondent No.1 – Regional Passport Office, Nagpur to forthwith release the passport of the petitioner being No. P2461514, which is impounded by the Regional Passport Office and after the release of the passport, grant permission to travel to the United States of America.

3. The respondent No.1 found that while applying for passport, the petitioner has suppressed the fact about pendency of criminal trial against him and, therefore, by taking action under Section 12(b) of the Passports Act, 1967, has impounded the passport of the petitioner.

4. The facts in brief are as under :

5. In the year 2009, one Ramesh Pawar made a complaint against the petitioner, who was working at Water Resources Department as a Sub Divisional Officer, thereafter, the departmental enquiry was conducted by the then Deputy Superintendent of Police, Anti Corruption Bureau, Akola. On 19.12.2009, the Superintending Engineer, Buldana Irrigation Project Circle Department has exonerated (absolved) the petitioner from the charges of corruption. Based on the same complaint, the First Information Report was registered against the petitioner at Hiwarkhed Police Station, Akola bearing First Information Report No.55/2010 for the offence punishable under Section 468, 471, 409 and 420 read with Section 34 of the Indian Penal Code and Section 13(1)(c)(d), (2) of the Prevention of

Corruption Act on 12.10.2010. On 18.04.2012, the Deputy Secretary, Government of Maharashtra passed an order thereby absolving the petitioner from the complaint No.2006/2/(93/06).

6. The police have filed the Final Report (C Summary) before the Trial Court stating that neither a case of alleged corruption by the petitioner nor an offence of forgery by the petitioner is made out, hence, the case has been registered as C Summary vide Case No.1/2015 before the Sessions Judge, Akot.

7. The petitioner has applied for permission to obtain the passport. On 07.01.2017, the Government of Maharashtra issued No Objection Certificate. Accordingly, he applied for the passport at the Regional Passport Office, Nagpur on 14.02.2017. The Authority has issued the passport bearing No.P2461514 on 16.02.2017. The petitioner got retired on 30.11.2017. Thereafter, he travelled to Singapore and Indonesia in the year 2019 and also travelled to the United States of America and returned back to India on 22.09.2019.

8. The petitioner received a letter on 26.09.2019 issued by the Regional Passport Office, Nagpur intimating the petitioner that his passport bearing No.P2461514 has been impounded and asked the petitioner to submit his passport in the said Office. The petitioner had received some letter allegedly issued by the Passport Authority on 28.06.2017 and

06.07.2019. Said unserved notice dated 06.07.2019 was issued for proposed action under Section 10(3)(e) and 12(1)(b) of the Passports Act, 1967. Being aggrieved by the said action and show-cause notices issued by the respondents, the petitioner has filed this petition.

9. The respondent No.3 has filed reply stating that the Crime Bearing No.55/2010 was registered against the petitioner with Police Station, Hiwarkhed. The investigation was set into motion and it is concluded into filing of C Summary vide Case No.1/2015 before the Sessions Judge, Akot. Such C Summary is still pending on the file of the Sessions Judge, Akot. It is not yet accepted by the Court. The petitioner has approached before this Court belatedly and no cogent reason is given. Hence prayed to dismiss the petition.

10. Heard the learned Counsel for the petitioner and the respondents.

11. The passport of the petitioner was impounded as per Section 10(3)(e) of the Passports Act, 1967. Section 10(3)(e) of the Passports Act, 1967 reads thus :

“Section 10. Variation, impounding and revocation of passports and travel documents. -

(1) -----

(2)-----

(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document, -

(a) -----

(b)-----

(c) -----

(d) -----

(e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a Criminal Court in India.”

As per this section, according to the Passport Authority, the criminal proceeding was pending against the petitioner and the said fact was suppressed by him while obtaining the passport.

12. It appears from the record that in the year 2009, as per office order, he was exonerated from Departmental Enquiry. After exonerating from the Departmental Enquiry, the First Information Report was registered, the investigation was completed and the C Summary was filed in the Sessions Court and it was informed to the petitioner. Therefore, the petitioner was under impression that no offence is pending against him and therefore, he has not mentioned about the First Information Report registered against him and the filing of C Summary. The C Summary which is pending before the Trial Court cannot be the ground for impounding the passport of the petitioner. The petitioner has not received show-cause notices about impounding and taking action under Section 12(b) of the Passports Act, 1967. Section 12(b) of the Passports Act, 1967 reads thus :

“Section 12. Offences and penalties. - (1) Whoever -

(a) -----

(b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or

travel document under this Act or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document.”

As per Section 12(b), if the person knowingly furnishes any false information or suppresses any material information, emphasizing on ‘knowingly’, the petitioner was not knowing about the pendency of C Summary before the Trial Court, he was only aware about the fact that the crime against him is not made out as the same was informed by the police and also by the Court, therefore, the action taken under Section 12(b) of the said Act will not be attracted against the petitioner. No offence is pending against the petitioner. Earlier after receiving the passport, the petitioner has travelled to Singapore, Indonesia and the United States of America in the year 2019, nothing wrong happened as he returned back to India on 22.09.2019. Therefore, the action taken by the Authority impounding the passport and not allowing the petitioner to travel abroad, is illegal. Hence the petition is allowed in terms of prayer clauses (i) and (iii).

13. There is no question of grant of permission to the petitioner to travel abroad as no offence is pending against him.

14. Rule is made absolute in aforesaid terms.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)