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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2723/2025
CAROLINA PRADA

.....Petitioner

Through: Mr. Digvijay Rai, Mr. Kustubh Singh
and Mr. Siddharnt Rai Sethi, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Arjun Mahajan, SPC for UoI
alongwith Mr. Apoorv Upamnyu and
Mr. Harsh Vashisht, Advocates.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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04.03.2025

1. The present petition has been filed by the petitioner being aggrieved by a communication dated 11.09.2024 whereby the request of the petitioner for grant of visa was declined. The aforesaid communication reads as under -

“Dear Carolina Prada,

We regret to inform you that your process for visa could not be completed as you have overstayed in India without a valid visa for 9 months (24.08.2023 - 26.05.2024).

*Kindly let us know if you need the passport to be sent to the below address.
Thanks*

*A. Henríquez A.
CONSULAR WING
Embassy of India
Colombia/Ecuador
Calle 116 No. 7 - 15, Int. 2 Of. 301
Torre Cusezar
Bogotá, Colombia
www.eoibogota.gov.in”*

2. Learned counsel for the petitioner submits that the petitioner, who is a



Colombian national, has been in India since 2008 on a student visa and later underwent training in the art forms - *Chhau* and *Kalarippayattu*. It is submitted that since 2014, the petitioner has been residing in India under an employment visa which was renewed on an annual basis and ultimately, expired on 23.08.2024. During the aforesaid period the petitioner is stated to have worked with *Instituto Cervantes* as a Spanish Language teacher. On 23.08.2023, the petitioner was also offered a teaching position at a charitable trust i.e. Kalarigram Trust.

3. It is submitted by the learned counsel for the petitioner, that in line with past practice, on 23.8.2024 the petitioner applied for a extension of visa through the online portal of respondent no.2/Foreigners Regional Registration Office. However, on this occasion, the petitioner's application for renewal of her visa remained unprocessed. Consequently, the petitioner visited the RRO Office, Puducherry on 01.09.2023 and on several occasions thereafter.

4. It is stated that on 25.09.2023, the online status of the petitioner's application for visa renewal was reflected as "closed" with the remarks that the petitioner was required to "*Reupload Photo/Document or Additional Document through Re-upload Missing and Additional Document*". It is submitted that subsequently, when the petitioner again visited the office of RRO Office, Pondicherry, she was directed to visit the FRRO, Chennai office. Consequently, upon visiting the FRRO, Chennai Office, she was directed to visit the FRRO, Delhi Office. Thereafter, at the FRRO Delhi Office, it is stated that the petitioner was informed that her application for visa renewal may be approved by the respondent no.2 subject to a police verification certificate being submitted by the petitioner.

5. It is submitted that a police verification report was issued by the Tamil



Nadu Police on 11.01.2024 and the same reads as under:

“This is to certify that Ms. CAROLINA S/o PRADA is currently residing at UDAYAN, AUROVILLE, P.O, EDAYANCHAVADI MAIN ROAD. OUSSUDU, TAMIL NADU, OUSSUDU, TAMIL NADU, VILUPPURAM District, 605101.

He is not found to be involved in any criminal case as per the records available with Police department.”

6. Despite the same, the petitioner received an email dated 16.04.2024 from respondent no.2 stating that her application for visa renewal/extension has been closed and the petitioner was directed to apply for an exit visa. The aforementioned email also stated that the petitioner may arrive in India on a fresh visa. The same reads as under:-

“YOUR REQUEST IS CLOSED AS YOU HAVE CHANGED THE ORGANIZATION. PLEASE APPLY FOR EXIT PERMIT. YOU MAY ARRIVE INDIA ON NEW VISA.”

7. The petitioner acted in consonance with the aforesaid email and applied for an exit visa and departed from India on 27.05.2024. It is in the above background that the fresh visa application of the petitioner has been rejected.

8. Learned counsel for the respondent objects to the maintainability of the present petition on the ground that a foreign national has no right to insist on grant of a visa ; the same is the prerogative of the concerned respondent and no judicial review is permissible with regard thereto.

9. There is no cavil to the aforesaid submissions on behalf of the respondent/s. However, it is noticed that in the present case, the denial of the visa to the petitioner is predicated on the premise that the petitioner has over-stayed / stayed in India beyond the expiry of her visa, for a period of 9 months i.e. from 24.08.2023 to 26.05.2024. During this period, the petitioner was diligently pursuing the authorities for obtaining an extension of visa. The



police verification report of the petitioner was also issued by the Tamil Nadu Police, which did not find the petitioner to be involved in any untoward activities. Thereafter, when the petitioner was asked to apply for an exit visa/ exit permit, she took steps to abide by the said directive and consequently, left India immediately on 27.05.2024 upon obtaining an exit visa / exit permit.

10. In the circumstances, *prima facie*, this Court does not find that the petitioner's stay in India beyond the expiry of her visa for a period of 9 months i.e. from 24.08.2023 to 26.05.2024, should be an impediment in processing any fresh visa application of the petitioner. In any event, this is an aspect that is required to be considered by the concerned authorities and this Court refrains from issuing any direction/s to the respondents, which impinges upon their prerogative to take a decision as regards grant of visa to the petitioner. However, it would be apposite for the respondents to take note of all relevant circumstances as set out herein-above and thereafter take an informed decision in the event of any fresh visa application being submitted by the petitioner. It is directed accordingly.

11. The present petition is disposed of in the above terms.

SACHIN DATTA, J

MARCH 4, 2025/at