



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 6100 of 2024

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ZAKEERHUSEN MOHMEDSHAFI JHANKHWALA
Versus
REGIONAL PASSPORT OFFICER & ANR.

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Appearance:

MR. VIRAT POPAT with MR MAULIK N SHAH(5280) for the
Petitioner(s) No. 1

MR. KSHITIJ M AMIN(7572) for the Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 2

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 08/05/2024

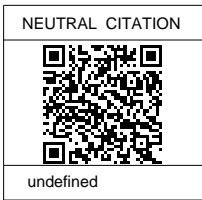
ORAL ORDER

1. By way of the present Petition, petitioner herein has
prayed for the following reliefs:

“A. To allow the present petition

B. To issue writ of mandamus and / or any other
appropriate writ, directing the respondent authority to re-issue
the passport and to process the application of the petitioner
being Application No. AH2078988612623 within a period of 15
days. (At Annexure-A)

C. Pending admission, final hearing and disposal of this
application direct the respondent authority to re-issue the
passport and to process the application of the petitioner being
Application No. AH2078988612623 within a period of 15 days.
(At Annexure-A)

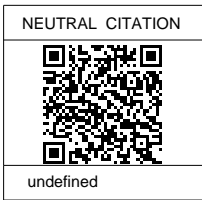


D. To pass any other and further orders as may be deemed fit and proper.”

2. Heard Mr. Virat Popat, learned advocate with Mr. Maulik N. Shah, learned advocate appearing for the petitioner and Mr. Kshitij M. Amin, learned advocate appearing for the respondents – passport authorities.

3. By way of the present petition, petitioner herein seeks re-issuance of the passport and for direction to process the application of the petitioner being application No. AH2078988612623 (Annexure-A).

4.1. Reliance is placed by Mr. Popat, learned advocate appearing for the petitioner, on the application, that is filed before the respondent authority dated 20.12.2023, duly produced at Page-16. The respondents- passport authorities have raised the objections, as per the communication dated 29.01.2024 that there are three offences registered against the petitioner in Sabarkantha District, which are referred to as Court Case No. 3882 of 2020, 3880 of 2020 and 1878 of 2022 under Negotiable Instrument Act, copy of the communication dated 29.01.2024 is duly produced at

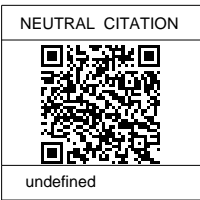


Annexure-B.

4.2. Mr. Popat, learned advocate placed reliance on the Notification dated 10.10.2019 of the Government of India, Ministry of External Affairs and submitted that the application filed by the petitioner herein dated 20.12.2023 (Annexure-A), which is pending before the competent authority, be considered in line with the aforesaid circular.

4.3. Mr. Popat, learned advocate fairly submits that, there are total six cases pending against the petitioner under the Negotiable Instruments Act. Mr. Popat, learned advocate undertakes to make a communication to the respondent – passport authority with respect to the pendency of the proceedings pending against the petitioner herein, on receipt of the order.

5. Mr. Kshitij M. Amin, learned advocate appearing for the respondents– passport authorities submitted that respondents authorities were duty bound to raise such objections, in view of the pendency of the criminal proceedings under the Negotiable



Instruments Act, against the present petitioner. It is submitted that, it cannot be said that any error is committed by the respondents – passport authorities.

6. At this stage, it is apposite to refer to the notification issued by the Central Government, the Ministry of External Affairs bearing No.VI/401/1/5/2019 dated 10.10.2019, para-2 of the said notification reads thus :-

“2. GSR 570(E) dated 25.8.1993 is reproduced below for reference: GSR 570(E) - In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No. GSR 298(E) dated the 14th April 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of subsection (2) of Section 6 of the said Act, subject to the following conditions, namely:

(a) the passport to be issued to every such citizen shall be issued-

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or .

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year;

(iv) if such order gives permission to travel abroad for a



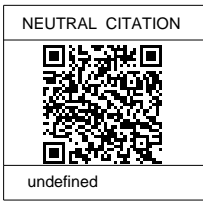
period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c) any passport issued in terms of (a)(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.”

7. Having heard the learned advocates appearing for the respective parties and in the facts of the present case, the present case is governed by the Notification dated 10.10.2019 of the Government of India, Ministry of External Affairs. The application that has been filed by the petitioner seeking re-issuance of the passport on 20.12.2023 (Annexure-A), the same be considered in accordance with law, as expeditiously as possible. The passport be issued for a period of five years, in line with the aforesaid Notification. Mr. Papat, learned advocate undertakes to comply with the statement, with respect to the pendency of the proceedings pending against the petitioner herein, on receipt of the order.



8. With the aforesaid, the present Petition stands allowed to the aforesaid extent.

9. This Court has otherwise not opined on the merits of the matter.

Direct Service is permitted.

(VAIBHAVI D. NANAVATI,J)

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