

Shaifazainab Vs. Union of India and Others

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Court : Karnataka

Decided On : Aug-13-2015

Judge : A.S. Bopanna

Appeal No. : Writ Petition No. 7076 of 2015 (GM-PASS)

Appellant : Shaifazainab

Respondent : Union of India and Others

Judgement :

1. The petitioner is before this Court assailing the order dated 25-11-2013 impugned at Annexure-A and the order dated 20-7-2012 impugned at Annexure-F1 to the petition.

2. The petitioner was issued with a Passport and the same had been subsequently renewed. In respect of the passport for which the application was made under 'Tatkal Scheme', one Sri H.K. Subhash who had acted as an agent for the petitioner is stated to have submitted certain forged certificates along with other documents, In that regard, criminal proceedings has been initiated against the said Sri H.K Subhash. In that light, by the communication dated 20-7-2012 issued by the second respondent to the petitioner, the Passport bearing No. K2773957 issued on 15-5-2012 to the petitioner has been impounded. Against the said order of impounding, the petitioner had filed an appeal as provided under Section 11 of the Passports Act, 1967. The Appellate Authority by the order dated 25-11-2013

has dismissed the appeal. In that view, the petitioner claiming to be aggrieved is before this Court.

3. The respondents have filed their objection statement. They seek to contend that though the Passport was issued after verification, it is subsequently learnt that the documents submitted in support of the Passport viz., the application was said to have been forged and in that view, the proceedings is stated to have been initiated against the Agent who had made the application on behalf of the petitioner. In that light, it is contended that Section 10(3)(b) would provide that action could be taken even when such document is submitted by any other person on behalf or the applicant. It is therefore contended that the action initiated is justified.

4. In the light of the contention, a perusal of the papers would disclose that though the order of impounding the Passport at Annexure-F1 does not indicate detailed reasons, the order of the Appellate Authority would refer to the violation under Section 12(1)(b) of the Act and the primary reason for which the impounding has been upheld is by indicating that a case against the appellant viz., the petitioner herein is pending at the Aduvudi Police Station relating to securing fake verification certificate for obtaining the Passport.

5. In that regard, the document at Annexure-J would indicate that it is the charge-sheet which has been filed in the case as has been contended by the respondents. A perusal thereto would indicate that Sri H.K. Subhash is the accused and the name of the petitioner has been shown as C.W.3 i.e. as a witness. If this aspect of the matter is kept in view, the case as pending and as referred to in the order of the Appellate Authority is not against the petitioner herself. Even in that light, if the provision referred to by the learned Counsel for the respondents is kept in view and if it is taken into consideration for the moment that the accused in the said case had made the application on behalf of the petitioner, the ultimate conclusion could be arrived by only keeping in view the decision that may be rendered in the said criminal proceedings relating to the complicity or the persons involved. In that light, the judgment that may be rendered to come to the conclusion as to whether the accused therein was guilty of the offences alleged against him and the role of the person on whose behalf he had made the

application and also whether the petitioner had knowledge of the manner in which the documents had been obtained by the said accused. This would be relevant in the circumstance that Section 12(1)(b) to which the Appellate Authority has referred would indicate that furnishing of such false information should be with knowledge. This aspect would emerge only after a conclusion is reached in the criminal trial and until such time, since the petitioner is not shown as an accused in the criminal proceedings, that in itself cannot be a reason to impound the Passport at this juncture when it was allowed to remain in operation till the date of impounding.

6. Therefore, taking into consideration these aspects of the matter and without expressing any opinion with regard to complicity of any of the parties in the alleged criminal acts said to have been committed which is pending consideration before the Competent Court, in the circumstance as noticed above, for the present, the impounding order dated 20-7-2012 at Annexure-F1 and the order of the Appellate Authority dated 25-11-2013 (Annexure-A) not being sustainable at this stage, stand quashed.

The petition is accordingly disposed of.

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