

**(2021) 08 DEL CK 0056**

**In the Delhi High Court**

**Case No :** Civil Writ Petition No. 2527 Of 2020, Civil Miscellaneous Application No. 8844 Of 2020

Asif Hakim Adil

APPELLANT

Vs

Union Of India

RESPONDENT

**Date of Decision :** 13-08-2021

**Acts Referred:**

Citizenship Act, 1955 — Section 7A(2)

**Citation :** (2021) 08 DEL CK 0056

**Hon'ble Judges :** Prathiba M. Singh, J

**Bench :** Single Bench

**Advocate :** Febin M Varghese, Dhiraj A Philip, Chetan Sharma, Nidhi Raman, Zubin Singh, Vinay Yadav, R.V. Prabhat, Akshay Gadeock, Amit Gupta, Sahaj Garg

## Judgement

Prathiba M. Singh, J

1. This hearing has been done through video conferencing.
2. The present petition has been filed by the Petitioner seeking quashing of order dated 7th February, 2020 cancelling his Overseas Citizen of India card (hereinafter, "OCI card").
3. The case of the Petitioner is that the Petitioner was born in India on 24th April, 1954. He completed his LLB studies in Mumbai and also worked as a lecturer for some time. Between 1978 to 1989, the Petitioner moved to the U.S. to complete his MBA from Cornell University. He thereafter joined various companies and corporate houses in the U.S. Between 1993 to 1999, he moved with his family to India and worked as a partner in McKinsey & Company in Mumbai. Between 2000 to 2009 he started a business in Mumbai.
4. On 7th December, 2006, the Petitioner was issued a Person of Indian Origin card (hereinafter, "PIO card") and the Petitioner was

continuously travelling to India from time to time. Some dispute, unrelated to this petition, had taken place in one of his business ventures. It is the case of the Petitioner that between 2013 to 2016, the Petitioner visited India more than 40 times. On 9th January, 2015, the Government of India by a gazette notification under Section 7A (2) of the Citizenship Act, 1955 withdrew the PIO Scheme and under Section 7A(2), all persons including the Petitioner were deemed to be OCI card holders, on account of previously holding the PIO card. The Petitioner was granted his OCI card on 18th May, 2016.

5. However, on 2nd March, 2019, when the Petitioner reached Mumbai by Qatar Airways, he was stopped at the Airport. His OCI card was confiscated and he was deported back. The case of the Petitioner is that the confiscation of his OCI card is completely contrary to law. The Petitioner had filed a writ petition, being W.P.(C) 4302/2019 titled Asif Hakim Adil v. UOI. On 18th December, 2019, an order was passed directing the Respondent to issue the Petitioner a copy of the order resulting in the cancellation of his OCI card. The Petitioner was then supplied a communication dated 23rd November, 2016, which was a letter exchanged between the Ministry of Home Affairs and the F.R.R.O., Mumbai, in which the F.R.R.O. was directed to cancel the Petitioner's OCI card. In the said letter, there were no reasons mentioned as to why the Petitioner's OCI card was being cancelled. An application was then moved by the Petitioner in the writ petition, in which notice was issued for 10th February, 2020. However, just a few days before the listing, on 7th February, 2020, a formal order was passed by the Ministry of Home Affairs that the Petitioner had come to adverse in the year 2014 and hence, his OCI card was cancelled. On 10th December, 2020, this Court granted liberty to the Petitioner to challenge the order passed by the Ministry of Home Affairs on 7th February, 2020.

6. Notice was issued in this petition on 20th August, 2020. Since then arguments have been heard from time to time. Vide order dated 4th February, 2021 both, the Petitioner as well as the Respondent were permitted to file additional documents in a sealed cover. On 18th February, 2021, the Court perused the documents produced by the Respondent in a sealed cover, as per which the basis for cancellation of the Petitioner's OCI Card appeared to be an SIT, Mumbai report revealing certain alleged facts. It was directed that

further instructions be sought on the investigation, if any, conducted on the information shown to the Court and for a status report to be filed in respect thereof in a sealed cover.

7. Mr. Chetan Sharma Id. ASG along with Ms. Nidhi Raman, Id. counsel relies upon some material filed in a sealed cover before the Court to justify the `adverse remark` against the Petitioner.

8. This Court has perused the status report which was filed in a sealed cover and the material on the basis of which the Respondent is seeking to justify the suspension/cancellation of the OCI card of the Petitioner. The Petitioner has also placed on record a confidential document to establish his credibility and his impeccable credentials.

9. Having perused the status report of the Union of India and also the document placed on record by the Petitioner, before going into the merits or demerits of the allegations raised and the contentions of the parties, this Court put it to the Id. ASG as to whether keeping in mind the educational qualifications and credentials of the Petitioner, the authorities would reconsider the application of the Petitioner for a fresh OCI card. The answer was in the affirmative. Accordingly, the Petitioner is permitted to apply for an OCI card afresh. The authorities could take a fresh look at the Petitioner's application, without being affected by the previous cancellation in any manner whatsoever.

10. The said application be filed on or before 22nd August, 2021 with the Indian Consulate closest to his residence in the U.S or in the VFS or other processing agency. The application be considered and processed in accordance with law. The decision on the Petitioner's application shall be taken on or before 25th September, 2021.

11. Parties to report on the developments, if any, by the next date of hearing. Needless to add, if the authority processing the OCI card application wishes to interact with or meet the Petitioner, such a meeting could be arranged through video conferencing or through an online platform.

12. It is clarified that no observations made in this order would affect the merits of the contentions of either of the parties.

13. This matter shall be treated as a part-heard matter.

14. List for hearing on 5th October, 2021.