

(2019) 02 DEL CK 0297

In the Delhi High Court

Case No : Civil Writ Petition No. 6718 Of 2018, Civil Miscellaneous Application
No. 25485 Of 2018

Jonathan David Iverson Through His Authorised
Representative Margaret Annette Iverson

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 14-02-2019

Acts Referred:

Citation : (2019) 02 DEL CK 0297

Hon'ble Judges : Vibhu Bakhru, J

Bench : Single Bench

Advocate : Sulabh Rewari, Neha Mathen, Rajesh Gogna, Upender Sai

Final Decision : Allowed

Judgement

Vibhu Bakhru, J

1. The petitioner is a citizen of United States of America and has filed the present petition, inter alia, impugning the action of respondents in denying the petitioner re-entry into India, despite the petitioner holding a valid visa. The petitioner is married to an American citizen and has five daughters aged between three to eleven years, three of whom were born in India.

2. At the outset, the learned counsel appearing for the petitioner submitted that the visa issued to the petitioner has expired and, therefore, the scope of the present petition is limited to the action of the respondents in blacklisting the petitioner.

3. The petitioner was issued a long-term business visa on 31.05.2011. The petitioner came to India on the strength of the aforesaid visa and commenced business in Bengaluru sometime in July, 2011. Subsequently, he incorporated a company, named, Versys Consultants and Services Private Limited (hereafter ? Versys?), which is engaged in training and equipping entrepreneurs, to start and grow small businesses to medium sized enterprises. It is stated that the

petitioner owns 50% of the issued capital of the said company. It is stated that the petitioner used to visit India regularly for business since 2011. He decided to take full time employment in India and, accordingly, applied for an employment visa which was granted on 22.10.2015. The petitioner's family also relocated to India.

4. The petitioner and his family members went to USA for a short visit between 05.04.2018 and 19.06.2018. They boarded the return flight to India on 18.06.2018, which landed in Bengaluru on 19.06.2018. While the petitioner's family (his wife and children) were allowed to enter into India, the petitioner was stopped from doing so. He was, thereafter, asked to board a flight to Singapore.

5. Aggrieved by denial of entry into India, the petitioner filed the present petition impugning the said action of the respondents as a wholly arbitrary and unreasonable.

6. The respondents have filed a counter affidavit indicating that the petitioner was placed on a "blacklist 'B' category for indulging in Missionary activities while being on Employment Visa". The reason for blacklisting the petitioner as stated in blacklist circular issued by the FRRO, reads as under:

"Foreigner and his family regularly visit a worship centre viz. Bangalore International Christian Fellowship (BICF) and are actively involved in the activities of the above Church while being on employment visa thus violating rules and regulations."

7. The petitioner has filed an affidavit affirming that the petitioner was never involved with Bengaluru International Christian Fellowship (BICF) as alleged and he has not visited BICF in recent years. He has affirmed that to his recollection, he had visited the said Church on two or three occasions and that too, about five years ago. The petitioner affirmed that he and his family have been regularly attending a Church called New City Fellowship Church and have not been involved in any missionary activity.

8. It is relevant to note that despite pointed queries by the court, no material was produced on record to substantiate the allegation that the petitioner has been engaged in any missionary activity.

9. As is apparent from the above, the FRRO had initiated the proposal to blacklist the petitioner on the ground that enquiries had revealed that the petitioner was involved in church work and conducted special prayer/training sessions at his residence every Tuesday and Sunday. Plainly, holding a prayer session at one's own residence cannot be termed as carrying on missionary activity.

10. The petitioner has also filed an affidavit affirming that Versys offers a host of business development services including co-working spaces (business labs), a Business Development Center (BDC), and consultancy and training services. He has affirmed that Versys employed eleven persons, including the petitioner. Some of the employees were qualified engineers, consultants and administrators.

The petitioner has also affirmed that the petitioner had provided consultancy / training to various clients including Mindtree, Volvo and Procter & Gamble. The petitioner is also highly qualified and holds several degrees. The plain reading of the affidavit of the petitioner indicates that he is fully employed in the bona fide business of Versys.

11. It is material to note that none of the aforesaid averments could be effectively controverted. Thus, the only conclusion that can be drawn is that the petitioner was fully employed in the business of his company, and the conclusion of the respondents that the petitioner was engaged in missionary activities is without any basis.

12. Right to practice one's religion is a Fundamental Right and any action of the respondents seeking to impose a punitive measure on that ground, cannot be sustained. Therefore, its action to place the petitioner in "Blacklist 'B' category", is wholly unsustainable.

13. Accordingly, the decision to blacklist the petitioner is set aside. The petitioner would be at liberty to apply for an appropriate visa for visiting India and the same would be considered by the respondents uninfluenced by the decision to blacklist the petitioner.

14. The petition is allowed in the aforesaid terms. The pending application stands disposed of.