
(2022) 12 DEL CK 0112

In the Delhi High Court

Case No : Civil Writ Petition No. 8892 Of 2021, Civil Miscellaneous Application
No. 27639 Of 2021, 50553, 55204 Of 2022

Maresh Kumar

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 19-12-2022

Acts Referred:

Citation : (2022) 12 DEL CK 0112

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : C.P. Malik, Ripu Daman Bhardwaj, Kushagna Kumar

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.
2. The present petition has been filed on behalf of the Petitioner - Shri Mahesh Kumar seeking quashing of the order dated 12th August 2021 whereby the request of his wife - Ms. Shemeta Mariia for conversion of her existing Indian e-Visa to X(marriage)-Visa, has been refused by Respondent No.2 - Foreigners Regional Registration Office (hereinafter, "FRRO"). This petition also seeks quashing of the exit permit dated 23rd July, 2021 whereby the Petitioner's wife was granted exit permit to leave India by 26th August, 2021.
3. The case of the Petitioner is that he is married to Ms. Shemeta Mariia, an Ukrainian National who came to India in April, 2019. The Indian e-Visa issued to Ms. Shemeta Mariia, was initially till 21st March 2020 however, it was extended to 4th March, 2021. Two days prior to the expiry of the said e-Visa, on 2nd March, 2021 Ms. Shemeta Mariia informed FRRO officials that she intends to marry the Petitioner and needs conversion of her existing e-Visa to X(marriage) - Visa.

4. It is submitted on behalf of the Petitioner, that the marriage between the Petitioner and Ms. Shemeta Mariia was solemnized at Arya Samaj Veshvic Hindu Vivah Trust, Delhi on 3rd March 2021 and a marriage deed was also executed on the same day. The said marriage has also been registered by the District Magistrate, Vivek Vihar, Shahdara District on 18th June, 2021. Thereafter, Ms. Shemeta Mariia filed an application for conversion of e-Visa to X(MarriageVisa), however, the same was refused by the FRRO vide order dated 12th August 2021. Hence, this writ petition.

5. This Court vide order dated 24th August, 2021, directed the Respondents to file their counter affidavit, while passing an interim order in the following terms:

"5. Issue notice. Mr. Abhay Prakash Sahay, CGSC, who is present in court, is requested to enter appearance on behalf of the respondents. Copy of the paper book be furnished to him during the course of the day. Counter affidavit, if any, be filed within four weeks. Rejoinder thereto, be filed within three weeks thereafter.

6. In these circumstances, it is directed that till the next date, no coercive steps shall be taken against the petitioner's wife on the basis of the impugned communications and her visa be suitably extended till the next date."

6. The counter affidavit in compliance with the aforementioned order has since been filed by the Respondents. As per the said counter affidavit, the action taken by the Respondents is fully in accordance with law. The e-Visa of Ms. Shemeta Mariia was valid up to 4th March, 2021 however, during the validity of the tourist visa she did not exit the country and overstayed for more than 4 months before applying for Visa conversion/ extension on 3rd July 2021. Further, she was working as a professional disk jockey (DJ) under a pseudonym i.e., "Mari-Lioness" and had performed in various clubs in India. She also travelled to various Indian cities to perform at events, thus violating the terms of her tourist Visa.

7. In the said counter affidavit, the Respondents also submit that the last minute marriage between the Petitioner and Ms. Shemeta Mariia could not be taken into consideration while granting Visa conversion/ extension as the Petitioner could not provide any bank statements for the last six months to show a stable source of income, thus, corroborating the fact that the said marriage was a marriage of convenience. Under such circumstances, the Respondents pray that the present writ petition is liable to be dismissed.

8. Today, Mr. Bhardwaj, Id. Counsel for the Respondents submits that due to the current geo-political situation, Ms. Shemeta Mariia being the Ukrainian National can, at best, apply for a war-Visa, if so advised.

9. At this stage, Id. counsel for the Petitioner, submits that for the time being, Petitioner's wife - Ms. Shemeta Mariia is willing to apply for a war-Visa.

10. Let an application for the same be filed within one week through the

appropriate online process. The same shall be considered and granted to the Petitioner within a period of one month thereof. For the said period, interim order already granted vide order dated 24th August, 2021 shall continue.

11. The Petitioner thereafter, is also permitted to file a fresh application for an X(marriage)-Visa and the same shall be processed in accordance with law. Reasoned orders shall be passed in regard to both of these visa applications, if either is being rejected.

12. It is clarified that the extension of the existing e-Visa due to the pendency of the present writ petition shall not be construed in an adverse manner against the Petitioner and his wife - Ms. Shemeta Mariia.

13. With these observations, the present petition, along with all pending applications, is disposed of.