
(2023) 02 TEL CK 0065
In the Telangana High Court
Case No : Writ Petition No. 24696 Of 2022

Mullapudi Srivani

APPELLANT

Vs

Bureau Of Immigration

RESPONDENT

Date of Decision : 13-02-2023

Acts Referred:

Constitution Of India, 1950 — Article 21

Citation : (2023) 02 TEL CK 0065

Hon'ble Judges : K. Lakshman, J

Bench : Single Bench

Advocate : Challa Gunaranjan, M Vijaya Kanth

Final Decision : Disposed Of

Judgement

1. Heard Sri E.Venkata Siddhartha, learned counsel appearing for the petitioner, Sri M.Vijaya Kanth, learned counsel appearing for respondent Nos.1 and 2 and Smt. V.Dyumani, learned counsel appearing for respondent Nos.3 to 5.

2. According to the petitioner, she joined as a Managing Director of the M/s. Progressive Constructions Limited and it was incorporated in the year 1981. She resigned on 07.04.2016 and there are no cases including criminal cases pending against the petitioner. There is no investigation initiated by the Enforcement Directorate under the Provisions of Prevention of Money Laundering Act. However respondent No.3 bank had already filed an application vide O.A.No.459 of 2016 against M/s Progressive Construction Limited and the petitioner for recovery of an amount of Rs.287,26,89,506.79 ps and a certificate dated 13.11.2018 was issued by the Debts Recovery Tribunal-I, Hyderabad.

3. Perusal of the record would also reveal that the said company has approached respondent No.3 bank by way of submitting OTS proposal and the same was accepted by the Bank for an amount of Rs.1,21,00,00,000/- vide proceedings dated 14.12.2022. In the said letter itself, it is specifically mentioned that the Bank shall adjust the upfront amount of Rs.90,00,00,000/- upon conveying the

OTS sanction. The said company has to pay balance amount of Rs.31,00,00,000/- on or before 30.06.2023. The said facts are not disputed by the learned counsel appearing for respondent Nos.3 to 5.

4. However, the learned counsel appearing for respondent Nos.3 to 5 bank would submit that the said company has to pay about Rs.2109.29crores to all the banks including 31 crores to the respondent Nos.3 to 5 banks. In the aforesaid O.A.No.459 of 2016 petitioner was arrayed as Defendant No.2 and petitioner and other respondents to the said O.A.No.459 of 2016 are jointly and severally liable for the decretal amount. Therefore, in the economic interest of the country, respondent Nos.3 to 5 have issued lookout circular against the petitioner in terms of guidelines dated 22.02.2021 issued by the Union of India, Ministry of Home Affairs. Respondent Nos.3 to 5 are conducting review of the aforesaid LOC issued against the petitioner herein. Therefore, according to learned counsel appearing for respondent Nos.3 to 5, there is no irregularity in issuing and maintaining the said LOC on the petitioner.

5. As stated above, there are no criminal cases pending against the petitioner and there is no investigation initiated by the Enforcement Directorate under PMLA. However, learned counsel appearing for respondent Nos.1 and 2 on the basis of written instructions dated 20.06.2022 of Originators, Foreigners Regional Registration Office, Hyderabad would submit that Deputy Commissioner of Police, Jaipur South, Rajasthan has issued LOC against the petitioner in FIR No.51 of 2016 dated 06.02.2016 and the same is pending. However, according to the learned counsel for the petitioner, eight crimes were registered against the petitioner, out of which 6 crimes were closed and with regard to the other two crimes, the said company is not in a position to get the whereabouts of complaints.

6. However, petitioner is seeking permission of this Court to travel abroad to attend a programme i.e., Landmark graduates scheduled from 13.02.2023 to 25.02.2023 in Norway. In proof of the same, she has filed copy of invitation etc.

7. In view of the above facts and submissions, it is relevant to note that in *Menaka Gandhi Vs. Union of India* 1978(1)SCC 248, it was held by the Apex Court that no person can be deprived of his right to go abroad unless there is a law enabling the State to do so and such law contains fair, reasonable and just procedure. Paragraph No.5 of the said judgment is relevant and the same is extracted below:-

Thus, no person can be deprived of his right to, go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passport Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports, Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or

impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law.

Therefore, such a right to travel abroad cannot be deprived except by just, fair and reasonable procedure.

8. Referring to the said principle and also the principles laid down by the Apex Court in several other judgments, considering the guidelines issued by the Union of India from time to time, the Division Bench of High Court of Punjab and Haryana at Chandigarh in *Noor Paul Vs. Union of India* (2022) SCC online P&H 1176 held that a right to travel abroad cannot be deprived except by just, fair and reasonable procedure. Without communicating the LOC to the subject of LOC, the authorities cannot seek to enforce it as it would not have any effect in law.

9. In view of the law laid down by aforesaid judgments and also considering the fact that petitioner wants to travel abroad for short period, this Court is inclined to grant permission to the petitioner to travel abroad on certain conditions.

i. Look Out Circular (LOC) issued by the respondent No.3 - Bank against the petitioner is suspended for the period from 13.02.2023 to 25.02.2023.

ii. Respondent bank shall inform/communicate this order to respondent No.2 - Immigration Officer in terms of Office Memorandum, dated 22.02.2021.

iii. The petitioner shall inform his arrival/departure to the respondent No.3 - Bank in terms of the said Office Memorandum, dated 22.02.2021 and he shall cooperate with the Bank by furnishing information/documents, if any, as and when required.

iv. Respondent No.3 - Originating Agency shall review LOC dated 07.05.2022 issued against the petitioner herein on quarterly and annual basis, submit proposals, if any, immediately after such a review in terms of the said Office Memorandum, dated 22.02.2021.

v. Both the petitioner and the respondents are directed to comply with the guidelines issued by the Government of India vide Office Memorandum dated 22.02.2021.

vi. Liberty is granted to the respondents to take action against the petitioner in the event of violation of any of the aforesaid conditions.

10. This Writ Petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the writ petition shall also stand closed.