

(2023) 03 DEL CK 0042

In the Delhi High Court

Case No : Civil Writ Petition No. 1045 Of 2023

Reena Singh

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 06-03-2023

Acts Referred:

Citation : (2023) 03 DEL CK 0042

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Chirayu Jain, Anurag Ahluwalia, Abhigyan Siddhant

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.

2. The present petition has been moved by the Petitioner, who is the sister of Mr. Raghwendra Pratap Singh, an Indian national who has been arrested in Uzbekistan. The stand of the Petitioner is that consular access has not been provided to him and his wife is also unable to meet him. The petition also seeks appointment of a lawyer for defending his case in the Uzbekistan courts, supply to him all the official documents relating to his arrest, detention, investigation, as also documents relating to the licensing, approvals of the medicine 'Dok1 Max'. The prayers sought in this writ petition are as under:

"A. The Respondent No. 1 and Respondent No. 2 to safeguard/ensure the following procedural protections for Mr. Raghwendra Pratap Singh during his period of detention, inter alia:

- a. daily visitation rights for the family members of Mr. Raghwendra Pratap Singh;
- b. Mr. Raghwendra Pratap Singh is provided with translator/interpreter throughout the investigation/court proceedings;

c. Mr. Raghwendra Pratap Singh and the Petitioner are provided all official documents pertaining to his arrest, detention, investigation and other Court processes;

d. Mr. Raghwendra Pratap Singh and the Petitioner are also provided with all documents relating to licensing, approvals etc. of the medicine 'Dok1 Max' and all other investigative materials regarding the tragic incident which claimed lives of eighteen children;

e. Mr. Raghwendra Pratap Singh is provided the right to engage his own legal counsel and which should include the right to confer with his lawyers in India over videoconferencing while ensuring complete confidentiality;

f. And to assist the Petitioner and family members of Mr. Raghwendra Pratap Singh in securing all other legal safeguards for the period of his detention and trial proceedings;

B. The Respondent No. 2 to ensure that as per Article 36 of the Vienna Convention, 1963 - Mr. Raghwendra Pratap Singh does not remain unrepresented during investigation/trial periods and is provided with a competent defense counsel who is familiar with English language;

C. The officials of Respondent No. 2 to meet Mr. Raghwendra Pratap Singh on bi-weekly basis as per Article 36 of the Vienna Convention, 1963 and ensure his well-being and safety;

D. The Respondent No. 1 and Respondent No. 2 to take all steps necessary to ensure Mr. Raghwendra Pratap Singh is not detained for a period longer than necessary; and

E. Pass any other order or grant any other relief as it may deem fit."

3. Notice was issued in this Petition and the UOI was directed to file a status report. Vide Order dated 14th February, 2023, further time was sought and the following directions were passed:

"6. In the present facts and circumstances, the Court observes that Consular access would be extremely crucial. The officials of the Indian Mission in Uzbekistan shall continue to take all the requisite steps to expedite Consular access for the detainee - Mr. Raghwendra Pratap Singh.

7. Considering the fact that Consular access has not been provided even after this Court has taken cognizance of the present writ petition, it is deemed appropriate that the present order is communicated to the embassy of Uzbekistan, for the sake of information and necessary cooperation.

8. On behalf of the Central Government, Id. CGSC submits that repeated steps are being taken for seeking Consular access, but the same have not yet fructified.

9. List on 6th March, 2023 on top of the board.

10. The Registry to serve the embassy on the following e-mails address for the purpose of information:

in.uzembassy@mfa.uz and

info.uzbekembassy@gmail.com

11. Let a further status report be filed by the Ld. CGSC on record by the next date of hearing.”

4. Ld. counsel Mr. Jain for the Petitioner relies upon the Article 36(1)(c) of the Vienna Convention on Consular Relations (‘VCCR’) to argue that the securing of legal representation would be absolutely essential for any Indian citizen in a foreign country. The said Article reads as follows:

“1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) ...

(b) ...

(c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.”

He places reliance on the judgment of the Supreme Court in *Angrez Kaur (Smt) v. Union of India & Ors.*, (2005) 4 SCC 446.

5. The Id. CGSC Mr. Ahluwalia on the other hand relies upon the email dated 5th March, 2023 received from Ms. Veena Prabha Tirkey, IFS, Deputy Secretary (Eurasia) as per which, the Indian Embassy in Tashkent has informed the said Ministry of External Affairs (‘MEA’) official that efforts were made to obtain Consular access to Sh. Raghwendra Pratap Singh which was granted finally by Uzbek authorities on 24th February, 2023. The extract of the said email received from the Indian Embassy in Tashkent is set out below:

“...

A team of consular officials from the Mission met him at the detention centre on February 24, 2023 without the presence of Uzbek officials during the interview. Embassy officials were allowed to freely meet and converse with Shri Singh, who appeared to be in good health.

2. Following are the outcomes of Consular Access as informed by the Indian Mission in Tashkent.

? Shri Singh was found mentally and physically fit. He was not harassed during the investigations.

? The authorities are careful about cleanliness in his area of living and sanitation.

? He is checked by a visiting doctor everyday and necessary medicines are available.

? He has been given healthy food thrice a day. He occasionally is served non-veg as per his preference.

? He has visited court twice. In his first visit to the court on Dec 28, Security authorities asked the court for Shri Raghwendra's remand for 3 months. His advocate requested the court for his bail, which was rejected.

? He has not been asked to sign any document without the presence of his advocate.

? He was interrogated at length twice, but without pressure and some part of the interrogation was videographed.

On being asked about the legal assistance, Shri Singh expressed satisfaction on the counsel appointed by his company Quramax.

3. The Indian Mission vide email dated Feb 15, 2023 informed that that Mrs. Olga Singh, wife of Shri Raghwendra Pratap Singh was allowed by the Uzbek authorities to meet her husband on 14th February 2023 at the pre-detention centre in Tashkent where Shri Raghwendra Pratap Singh was lodged. Mrs. Olga Singh was called by the Prosecutor General's office to visit the pre-detention centre and meet her husband.

4. The lawyer of Mr. Raghwendra Pratap Singh was also allowed to meet him during the detention.

5. The Consular official of the Embassy met Mrs. Olga Singh on Feb 14, 2023 to know more about the meeting. She informed that her husband's health was fine though he seemed to have lost weight. The meeting took place in the presence of an Uzbek official, who ensured that the conversation was confined to personal matters and did not touch upon the matter of the case."

6. The Court has perused the above email placed on record by Mr. Ahluwalia, Id. CGSC and has heard Mr. Jain, Id. Counsel appearing for the Petitioner. The only concern which the Id. Counsel for the Petitioner Mr. Jain expresses on behalf of the Petitioner who is the sister of the detainee is that proper legal representation ought to be made available to her brother.

7. From the email, it is seen that insofar as the mental and physical condition of the detainee is concerned, the Consular Official of the Indian Embassy have expressed their satisfaction in this regard. Necessary medical checkups and medicines are also stated to be available along with regular food being given to him. The detainee has stated to have visited the Court on two occasions and bail

however was rejected. The detainee had also expressed his satisfaction on the counsel appointed by his company Quramax Medikal LLC. As per the said email, vide an earlier email dated 15th February 2023, the wife of the detainee has also been permitted to meet him on 14th February, 2023. The wife of the detainee has also confirmed this position to the Indian Embassy Officials at Tashkent, Uzbekistan.

8. In view of the fact that Consular access has now been granted to the detainee, the Court is satisfied with the report which has been placed on record by the MEA official. However, the Indian Embassy Officials and the officials at Ministry of External Affairs shall ensure that the detainee is provided with legal assistance separately from the Company, if such a desire is expressed by the detainee. In addition, the Indian Embassy in Tashkent shall also ensure that they periodically meet the detainee in order to continuously satisfy themselves as to his physical, mental health provisions for his medical care as also proper legal representation.

9. This order shall not in any manner affect any application for bail or other legal remedies, which the detainee may avail before the Courts in Uzbekistan.

10. It is clarified that the present order is being passed in the peculiar facts of this case.

11. The petition is disposed of in these terms. All pending applications are also disposed of. Liberty to move an application, is granted to the Petitioner, if the need so arises.