

(2020) 09 DEL CK 0177

In the Delhi High Court

Case No : Civil Writ Petition No. 1811 Of 2020

Scott Daniel Turner

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 25-09-2020

Acts Referred:

Citation : (2020) 09 DEL CK 0177

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Dhiraj A. Philip, Febin M. Varghese, Rajesh Gogna, Akshya, Karan Chibber, Vedansh Anand, Ajay Kumar

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

CM APPL. 14760/2020 (for directions) in W.P.(C) 1811/2020

1. This hearing has been held through video conferencing.
2. The brief background is that this petition was filed seeking directions to be issued to the Respondent to return the Petitioner's Person of Indian Origin card (hereinafter, "PIO card") and if the PIO card was cancelled, for the cancellation order to be communicated to the Petitioner. This petition was disposed of on 17th February, 2020 in the following terms:

"In view of the above, the present petition is disposed of directing the respondent to intimate the petitioner about the status of the PIO card, through the counsel appearing for the petitioner, within a period of four weeks from today. In case the PIO card has been cancelled, a copy of the order cancelling the same be also communicated to the petitioner."

As per the above order, the Respondent was directed to intimate the Petitioner about the status of his PIO card within a period of four weeks, and in case of cancellation, the copy of the order cancelling the PIO card was to be

communicated to the Petitioner.

3. On 10th July, 2020, the present application was filed by the Petitioner claiming non-compliance of the timelines prescribed in order dated 17th February, 2020. The matter was thus listed on 31st July, 2020 for reporting compliance. On 31st July, 2020 an affidavit was filed by Mr. Ajay Kumar, Assistant Director, Bureau of Immigration, Ministry of Home Affairs (hereinafter, "MHA"), dated 3rd September 2020, however, the same did not provide any reasons for cancellation of the Petitioner's PIO card. Accordingly, a last and final opportunity was granted to the Respondent to place on record its reasons for revoking the Petitioner's PIO card. On the last date, i.e., 17th September, 2020, another affidavit was filed on behalf of the MHA clarifying that the Petitioner's PIO card had not been cancelled but in fact misplaced by the Office of the Superintendent of Police, DIB Darjeeling, Govt. of West Bengal, because of the agitation over the demand for Gorkhaland State. It was further stated that the Petitioner could convert his PIO card into an Overseas Citizen of India (hereinafter, "OCI") card but that he might face certain challenges. In order to facilitate the process, Mr. Ajay Kumar, Assistant Director, Bureau of Investigation, MHA was directed to join the virtual proceedings on the next date.

4. Pursuant to the last order dated 17th September, 2020, Mr. Ajay Kumar, Assistant Director, Bureau of Immigration, Ministry of Home Affairs has joined the proceedings today. After obtaining instructions from him, Mr. Rajesh Gogna, Id. CGSC submits that the timeline for conversion of the Person of Indian Origin (hereinafter, "PIO") card to an Overseas Citizen of India (hereinafter, "OCI") card has been extended till 31st December, 2021. Insofar as the Petitioner is concerned, it is submitted by Mr. Gogna that in view of the fact that the PIO card of the Petitioner has been misplaced by the office of the Superintendent of Police in Darjeeling, as a special case, the Petitioner shall be permitted to apply and seek conversion of his PIO card to an OCI card by simply furnishing a copy of the PIO card instead of the original card.

5. It is also confirmed by Mr. Gogna that the Petitioner had been black listed in view of an IB report. However, the said black listing has also come to an end as it was for a period of seven years.

6. Mr. Dhiraj A. Philip, Id. counsel for the Petitioner submits that no reason for black listing has ever been communicated to the Petitioner and the same is unlawful. However, at this stage, he does not wish to press any further in respect of the said black listing as the Ministry of Home Affairs has agreed to consider the Petitioner's application for conversion of his PIO card to an OCI card.

7. In view of the above submissions, the following directions are issued:

- i) The Petitioner is permitted to seek conversion of his PIO card to an OCI card and file an online application for the same, online, within one week from today;
- ii) The conversion application shall be processed on the basis of the copy of the

PIO card of the Petitioner and the original PIO card shall not be insisted upon due to the reasons recorded above;

iii) The processing of the application and the decision regarding the same shall be communicated to the Petitioner within a period of one month from the date of filing of the application;

iv) If the Petitioner's application for conversion of his PIO card to an OCI card is rejected for any reason, the rights of the Petitioner to challenge the initial black listing and the rejection of his application for conversion of his PIO card shall be left open.

8. Ld. CGSC submits that the inconvenience cause to the Petitioner is regretted. If the Petitioner faces any difficulty, the Id. counsel for the Petitioner may contact the Id. counsel for the Respondent.

9. The application is disposed of with the above directions.