

(2018) 02 DEL CK 0628

In the Delhi High Court

Case No : Civil Writ Petition No. 1896 Of 2018, Civil Miscellaneous No. 7867, 7869 Of 2018

Stadtmueller Gabriele

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 27-02-2018

Acts Referred:

Citizenship Act, 1955 — Section 6(1)

Citation : (2018) 02 DEL CK 0628

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Rajeev Ranjan Pandey, Manmohan, Monika Arora, Kushal Kumar

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

CM Nos.7867-68/2018 (exemption)

1. Allowed,subject to just exceptions.

W.P.(C) 1896/2018 & CM No.7869/2018

2. Issue notice. Ms. Monika Arora accepts notice on behalf of the respondents.

3. In view of the order that I propose to pass, counsel for the respondents says that no counter affidavit will be necessary and that she will argue the matter on the basis of the record.

4. By virtue of this writ petition, challenge has been laid by the petitioner to the order dated 21.12.2017, passed by the Joint Secretary, (Foreigners

Division, Ministry of Home Affairs) Government of India and the Appellate Authority as also to the communication dated 17.1.2018 addressed to her

by Under Secretary (Citizenship), Ministry of Home Affairs.

5. By virtue of the impugned order, the petitioner's review application has been dismissed. The petitioner, as it appears, had made a request for issuance of certificate of naturalization under Section 6(1) of the Citizenship Act, 1955.

6. The impugned decision dated 21.12.2017 was, however, rendered ex-parte since the petitioner had not appeared on the date and time fixed for hearing. A perusal of the communication dated 17.1.2018 which has also been impugned in the present writ petition, would show that a hearing in the matter was fixed by the concerned authority on 20.12.2017 at 3 pm. As a matter of fact, a closer perusal of the very same communication would show that the Ministry of Home Affairs vide a letter dated 4.12.2017 while communicating the factum of date and time of hearing to the petitioner had also given her liberty to be represented by an advocate.

6.1 The petitioner claims that she had no knowledge of these communications.

6.2 In order to cut through the maze of assertions and denials and having regard to the facts and circumstances of the case, I am inclined to set aside the order dated 21.12.2017 and communication dated 17.1.2018 (which only reiterates the fact that vide order dated 21.12.2017 the review application was dismissed) and direct a fresh hearing in the review application.

7. Accordingly, a direction is issued to the respondents to hear the petitioner's review application afresh. For this purpose, the petitioner will appear before the concerned authority on 14.3.2018 at 3 pm.

7.1 In case, the said date is not convenient to the concerned authority, a fresh date would be notified via written communication and e-mail to the petitioner and her counsel, Mr. Rajeev Ranjan Pandey, which would be proximate to the date indicated above.

7.2 For this purpose the e-mail Ids of the petitioner and her counsel are noted hereunder:-

a) advocaterajeevranjanpandey@gmail.com

b) gstadtmueller1@yahoo.de

8. Furthermore, in case the petitioner is not able to appear at the hearing fixed by the concerned authority, as indicated in the communication dated 17.1.2018, she would be represented by her counsel. The concerned authority, after the hearing is concluded, will pass a speaking order. A copy of

the order so passed will be furnished to the petitioner as well as her advocate.

10. The writ petition and pending application are disposed of in the above terms

11. Dasti.