

(2011) 09 DEL CK 0274

Delhi High Court

Case No: Writ Petition (C) 3605 of 2011 and CM No. 7552-53 of 2011 (for directions)

Mohd. Irfan Gani

APPELLANT

Vs

Unian of India (UOI) and Others

RESPONDENT

Date of Decision: Sept. 30, 2011

Acts Referred:

- Passports Act, 1967 - Section 10(5), 11

Hon'ble Judges: Rajiv Sahai Endlaw, J

Bench: Single Bench

Advocate: Mir Akhtar Hussain, for the Appellant; Ruchir Mishra, for the Respondent

Final Decision: Dismissed

Judgement

Rajiv Sahai Endlaw, J.

The petition impugns the order dated 10th May, 2010 of the Appellate Authority u/s 11 of the Passports Act, 1967 dismissing the appeal preferred by the Petitioner against the order dated 16th March, 2009 of the Embassy of India at Rabat, Morocco revoking the Passport No. G4546002 earlier issued to the Petitioner and valid from 10th April, 2008 till 19th April, 2018.

2. The Petitioner stationed at Morocco had applied to the Embassy of India at Rabat for a duplicate passport claiming that his original passport had been lost. During the pendency of the said application, it was realized that the brother of the Petitioner namely Mr. Rouf Ahmed Ghani had travelled on the said passport. A notice dated 10th February, 2009 was thus issued to the Petitioner to show cause as to why the passport earlier issued to him and reportedly lost should not be impounded/revoked for contravention of the condition that the passport holder shall not allow anybody else into custody/possession thereof.

3. The Petitioner submitted a reply dated 12th February, 2009 to the said notice to show cause denying having allowed his brother to travel on the said passport.

4. The Embassy, as aforesaid, vide order dated 16th March, 2009 revoked/impounded the passport.
5. The Appellate Authority in the order dated 10th May, 2010 has held that the brother of the Petitioner namely Mr. Rouf Ahmed Ghani, who was also at Morocco and was an accused under prosecution in Morocco and whose passport had been impounded by the Morocco authorities, had fled from Morocco on the passport of the Petitioner. Thus, the order of revocation/impounding was upheld.
6. Aggrieved there from the present petition has been filed. Notice was issued and the counsel for the Respondent directed to produce the records. Though no counter affidavit has been filed but the records have been produced by the counsel for the Respondent and have been perused.
7. The first argument of the counsel for the Petitioner is that while the number of the passport of the Petitioner was G4546002, the appellate order records the person who is claimed to be the brother of the Petitioner to have arrived at Mumbai on 28th September, 2008 on passport No. G4546000. It is thus argued that the entire substratum of the case against the Petitioner is on an erroneous presumption.
8. The record produced by the counsel for the Respondent however shows that the report of the Immigration Department considered by the Passport Authorities was, of a person having arrived at Mumbai on 28th September, 2008 from Abu Dhabi on Jet Airways flight No. 9W 583 on passport No. G4546002. It thus appears that the passport No. G4546000 recorded at two places in the appellate order is a typographical error.
9. The counsel for the Petitioner has also argued that the orders are erroneous for the reason of not specifying whether the punishment of impounding of the passport or of revocation of the passport has been imposed. It is urged that the two have different connotations.
10. The counsel for the Respondent has rightly clarified that while impounding is an interim measure which may be invoked during the pendency of the proceeding for revocation, revocation is the final punishment. There is thus no merit in the said contention also.
11. The counsel for the Petitioner though has also argued that the order of the Embassy is without any reasons and thus in contravention of Section 10(5) of the Act but upon it being pointed out that detailed reasons have been given in the appellate order, he confines the relief in this petition to consideration of an application to be made by the Petitioner for issuance of a fresh passport.
12. The counsels are in tandem that revocation of an earlier passport does not bar the Petitioner from applying for a fresh passport though may be a consideration in issuance of a fresh passport.

13. Once it is found that the order of revocation does not bar the Petitioner from applying for a fresh passport, it is not deemed expedient to direct the consideration of any application made by the Petitioner therefor in as much as the Petitioner is at liberty to apply for a fresh passport and the Respondents are expected to deal with the said application in accordance with law.

14. The petition is dismissed. No order as to costs.