



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 18th DECEMBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 1250/2023**

RANDA CHEHAB

..... Petitioner

Through: Mr. Anand Duggal, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Shoumendu Mukherji, Sr. Panel Counsel with Ms. Megha Sharma, Ms. Akanksha Gupta, Advocates and Mr. Reshesh Mani Tripathi, G.P. for UoI.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court under Article 226 of the Constitution of India challenging her deportation from Trivandrum, Kerala Airport on 28.11.2022 as arbitrary, unreasonable, illegal and unconstitutional.
2. It is stated that the Petitioner is a citizen of United States of America who had come to India under a valid visa, was deported from India by the Bureau of Immigration from Trivandrum Airport, Kerala on 28.11.2022.
3. The Petitioner states that she is a professional yoga teacher and has a Masters Degree in Global Health from Western University in the USA. It is stated that the Petitioner is also a licensed Physician Assistant in Montana, USA. It is also stated that the Petitioner is teaching yoga in USA since 2002



and she has incorporated the company under the business style name "Ashtanga Yoga School of Montana" in Montana, USA.

4. It is stated that since she is practising yoga, she is deeply inspired by the Indian culture and society. It is stated that the Petitioner is also involved in various charitable activities. The Petitioner states that she was on a valid visa issued by the Consulate General of India, Indian High Commission, San Francisco, United States of America.

5. It is stated by the Petitioner in the writ petition that she has also incorporated two institutions called (Down to Earth Yoga and Massage, Montana, USA and Ashtanga Yoga School of Montana, USA). She was given a multi entry tourist visa to India which was valid from 22.09.2006 to 21.03.2007. The Petitioner obtained another tourist visa with multiple entries valid from 09.10.2007 to 08.10.2017. The Petitioner obtained a long stay multiple entry tourist visa valid from 31.03.2017 to 30.03.2027. The Petitioner also obtained a business visa valid from 20.06.2019 to 19.06.2024.

6. It is stated that the Petitioner came to India and incorporated a private limited company, namely, Oceanview Homestay and Yoga Centre Private Limited in Trivandrum, Kerala as a promoter director. It is stated that the Petitioner helped victims by raising funds at the time of the cyclone Amphan which created havoc in the eastern parts of the country in 2020. It is also stated that the Petitioner incorporated a non-profit organization in the State of Montana, USA, namely, 'India Water Project Inc.' under the tax law provision 501(c)(3) in USA which is applicable for religious, charitable, scientific, literary or educational purposes.

7. It is stated that the Petitioner arrived at Trivandrum, Kerala on



28.11.2022 and immediately on her arrival, the Petitioner was deported back to Chicago, USA without any reason. It is stated that the Petitioner is being denied entry into India for undisclosed reasons.

8. Alleging that her deportation from the country is completely arbitrary and for no valid reason, the Petitioner has approached this Court by filing the instant writ petition.

9. Notice was issued on 01.02.2023. Status Report has been filed. The Status Report discloses that the Petitioner was issued the following visas by the Consulate General of India, San Francisco, i.e., T-1 Visa No. VK 0275900 valid from 31.03.2017 to 30.03.2027; and B-1 Visa No. VK 3934693 valid from 20.06.2019 to 19.06.2024.

10. The Petitioner again applied for a tourist visa on 15.12.2022 which was rejected as her name was found in the adverse/banned list entry of the Ministry of Home Affairs.

11. The Status Report reveals that the name of the Petitioner has been blacklisted at the behest of Foreigners Regional Registration Office (FRRO), Trivandrum vide Reference No. 4/FRRO/BOI/TVM/2020(2)-1086 dated 11.08.2020 as she was involved in public fund collection while visiting on a business visa which is not permitted. It is stated that as of today there is an adverse entry report against the Petitioner.

12. It is stated that as per the General Policy Guidelines Relating to Indian Visa, when a person is granted a business visa, the purpose is to attend business meetings and technical meetings and funds cannot be collected for the said purpose.

13. Heard learned Counsel for the parties and perused the material on record.



14. Learned Counsel for the Petitioner states that the Petitioner has been involved in charitable activities and is collecting public funds for the purpose of a charity, and this cannot be said to be unlawful. It is stated that the Petitioner has rendered yeomen's services when cyclone Amphan struck in eastern India and she has since been closely associated with various charitable activities. It is, therefore, stated that in this backdrop, it is not wrong to collect funds. Learned Counsel for the Petitioner states that the Petitioner holds a valid tourist visa and as a tourist visa holder, she can be permitted to come to India. It is stated that the Petitioner has come to India numerous times and the reason for blacklisting is completely arbitrary.

15. On the other hand, learned Counsel for the Respondent relies on Section 3 of the Foreigners Act which gives the power to the Central Government to make provisions either generally or for all foreigners prohibiting, regulating or restricting the entry of foreigners into India or their departure from India.

16. The short question which arises for consideration is whether the violation of the conditions of the business visa can be a sufficient reason for deportation and blacklisting of the Petitioner.

17. The Petitioner is a foreign citizen. The business visa as per the FAQs on business visa is granted to foreigners for the following purposes:-

"A Business visa may be granted to a foreigner for the following purposes:-

(i) Foreign nationals who wish to visit India to establish industrial/business venture or to explore possibilities to set up industrial/business venture in India.



(ii) Foreign nationals coming to India to purchase/sell industrial products or commercial products or consumer durables.

(iii) Foreign nationals coming to India for technical meetings/discussions, attending Board meetings or general meetings for providing business services support.

(iv) Foreign nationals coming to India for recruitment of manpower.

(v) Foreign nationals who are partners in the business and/or functioning as Directors of the company.

(vi) Foreign nationals coming to India for consultations regarding exhibitions or for participation in exhibitions, trade fairs, business fairs etc.

(vii) Foreign buyers who come to transact business with suppliers/potential suppliers at locations in India, to evaluate or monitor quality, give specifications, place orders, negotiate further supplies etc., relating to goods or services procured from India.

(viii) Foreign experts/specialists on a visit of short duration in connection with an ongoing project with the objective of monitoring the progress of the work, conducting meetings with Indian customers and/or to provide technical guidance.

(ix) Foreign nationals coming to India for pre-sales or post-sales activity not amounting to actual execution of any contract or project.

(x) Foreign trainees of multinational companies/corporate houses coming for in-house



training in the regional hubs of the concerned company located in India.

(xi) Foreign students sponsored by AIESEC for internship on project based work in companies/industries.

(xii) Foreign nationals coming as tour conductors and travel agents and I or conducting business tours of foreigners or business relating to it, etc."

18. Collecting money ostensibly for charitable activity is not permitted when a foreigners comes to India on a business visa. Since the Petitioner has admittedly acted contrary to what is permitted, the decision taken by the authorities to blacklist the Petitioner cannot be said to arbitrary and as such requiring any interference under Article 226 of the Constitution of India.

19. A Coordinate Bench of this Court in Kasha Elizabeth Vande v. Ministry of Home Affairs & Ors.. 2018 SCC OnLine Del 9920, has observed as under:-

"14. Thus, the decision of the respondents to deny entry to the petitioner cannot be stated to be arbitrary or unreasonable. Lastly, it is also alleged that the petitioner has violated the terms of a visa. Admittedly, the petitioner had floated a Non-Government Organization (NGO) and involved in various activities undertaken by the said NGO 'PondiART'. It is also pointed out that the said NGO invites donations for funding its activities. It is also alleged that some of the photography exhibitions organized by the petitioner under the banner of PondiART have political overtones. This Court is not called upon to examine whether the allegation that the activities conducted by the petitioner have any political overtones is correct. Concededly, the petitioner had been carrying out



various activities under the banner PondiART and this was not the purpose for which Visa was granted to the petitioner. The business Visa entitled the petitioner to visit India for commercial purpose. The petitioner was also not permitted to set up any proprietorship firm or partnership firm in India. Thus, there can be little doubt that the petitioner had, in fact, violated the Visa conditions by engaging in activities that did not strictly fall within the scope of the activities for which the Visa had been granted."

20. This Court in the said case has upheld the decision of the FRRO to blacklist the Petitioner therein by refusing to interfere under Article 226 of the Constitution of India. Similarly, this Court is also not inclined to interfere with the said decision of blacklisting of the Petitioner herein.

21. The Apex Court in Louis De Raedt v. Union of India, **1991 (3) SCC 544**, while explaining the applications of Fundamental Rights to foreigners visiting India has observed as under:-

"13. The next point taken on behalf of the petitioners, that the foreigners also enjoy some fundamental rights under the Constitution of this country, is also of not much help to them. The fundamental right of the foreigner is confined to Article 21 for life and liberty and does not include the right to reside and settle in this country, as mentioned in Article 19(1)(e), which is applicable only to the citizens of this country. It was held by the Constitution Bench in Hans Muller of Nurenburg v. Superintendent, Presidency Jail, Calcutta [(1955) 1 SCR 1284 : AIR 1955 SC 367 : 1955 Cri LJ 876] that the power of the government in India to expel foreigners is absolute and unlimited and there is no provision in the Constitution fettering this discretion. It was pointed out that the legal position on this aspect is not uniform in all the countries but so far the law which operates in India is concerned, the executive



government has unrestricted right to expel a foreigner. So far the right to be heard is concerned, there cannot be any hard and fast rule about the manner in which a person concerned has to be given an opportunity to place his case and it is not claimed that if the authority concerned had served a notice before passing the impugned order, the petitioners could have produced some relevant material in support of their claim of acquisition of citizenship, which they failed to do in the absence of a notice."

22. It is well settled that a Court can exercise its jurisdiction under Article 226 of the Constitution of India only where there is a violation of a right. In the absence of any right, a writ cannot be issued. Since the Petitioner has not been able to establish violation of any rights granted to the Petitioner, this Court is not inclined to exercise its jurisdiction under Article 226 of the Constitution of India to interfere with the decision taken by the authorities.
23. The writ petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 18, 2023

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