



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3434 OF 2022

WITH
INTERIM APPLICATION NO.986 OF 2023

WITH
INTERIM APPLICATION NO.1270 OF 2023

Ila Jatin PopatPetitioner
Vs.
The Union of India & Ors.Respondents

Mr. Sumedh Ruikar with Mr. Aditya Chitale, Mr. Prathamesh Bhosale,
& Mr. Prashant Shetty, i/b. MNSQ Legal, for the Petitioner.
Mr. Ajinkya Jaibhye, for the Respondent Nos.2 and 5.
Smt. P. H. Kantharia, Government Pleader, for Respondent Nos.3 and
4.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.

Date : 3rd APRIL 2025.

P.C.:-

1. By way of the present Petition, the Petitioner seeks quashing and setting aside of the order dated 31st December 2019 passed by the Respondent No.3-Deputy Collector (General), Mumbai Suburban District, Mumbai. By way of the said order, the Application of the Petitioner for grant of Indian Citizenship is disposed of on the ground that she does not fulfill the conditions of the Indian

Citizenship Act, 1955. The Deputy Collector has observed that as per available information on the record of the Greater Mumbai Police, Office of the D.C.P, Special Branch-II, Crime Detection Department, the Petitioner is a stateless national by birth; does not have any valid passport or visa; and despite the same, the Petitioner in her Application mentioned that her visa was valid upto 21st March 2019.

2. Mr. Sumedh Ruikar, learned counsel appeared for the Petitioner. Ms. P. H. Kantharia, learned Government Pleader appeared for the Respondent Nos.3 and 4-State and Mr. Ajinkya Jaibhye, learned counsel appears for the Respondent Nos.2 and 5.

3. It is the Petitioner's case that she was born on 6th September 1955 in Kamuli in Uganda. Her parents held British passports. She alongwith her younger brother accompanied her parents to India on 15th February 1966, when she was only 10 years old. Her parents are now deceased. She is married to an Indian citizen holding a valid Indian passport. She has two children also Indian by birth having Indian passport.

4. On 3rd April 1997, the Petitioner applied for an Indian

passport. On being required to furnish travel documents to verify as to how she entered India, she submitted her mother's passport. There was no response from the Authorities. Thereafter, on 14th May 2008, she once again applied for an Indian passport and was again required to submit her travel documents, once again there was no response.

5. A third Application was made on 17th May 2012, which was met with an advice to the Petitioner to first register herself as an Indian Citizen, without which her request for passport will not be considered. Thus, she made an online Application dated 15th March 2019 to the Authorities concerned seeking Indian Citizenship. She also submitted the necessary documents in support of her Application. However, by the impugned order, the Respondent No.3-Authority disposed off her Application holding that she was a stateless national and had mentioned incorrect details regarding validity of her visa.

6. Mr. Ruikar pointed to paragraph No.10 of the Petition which contains a specific averment explaining her *bona fide* mistake of having entered incorrect details regarding status of her visa. He, however, submits that the Petitioner is not a stateless national as she entered India when she was a mere 10 year old minor child alongwith

her mother. Mr. Ruikar thus states that her entry in India was legal and permitted by Indian Authorities. Mr. Ruikar places reliance on a judgment of this Court in the case of *Mrs. Sulabha Sharad Bavadekar v. Union of India & Ors.*¹ This Court has reproduced Sections 2(b) and 5 of the Indian Citizenship Act, 1955. ‘Illegal migrant’ as defined in Section 2(b) means a foreigner who has entered into India without a valid passport or other travel documents or with a valid passport and the travel documents, but remains in India beyond the permitted period of time. This Court observed in the said matter that in the absence of any material placed by the Government of India, to show that on a particular date, the residence of the Petitioner in India became illegal, there was no valid reason to deny citizenship to the Petitioner.

7. Mr. Jaibhaye stated that it was only because the Petitioner gave incorrect details of her visa that the Respondent No.3 disposed off her Application. Ms. Kantharia read out a letter by the Uganda Authorities to the Petitioner calling upon her to complete some formalities in order to be declared as Ugandan Citizen. The Petitioner, however, failed to take any steps in response to the letter of the

1 Writ Petition (C) No.6338 of 2015 decided on 5th April 2017.

Ugandan Authorities and continued to reside in India. Ms. Kantharia, however, fairly concede that in any event, the Petitioner cannot be termed as 'illegal migrant'.

8. Heard the parties and perused the record. Admittedly, the Petitioner is not an 'illegal migrant'. She has entered India as a minor, on valid documents of her mother and hence, her stay in India is not illegal. Ideally, the Petitioner ought to have taken steps to regularize her continued stay in India. Be that as it may, in the absence of any illegal act committed by the Petitioner; her husband and children holding valid Indian passport; the Petitioner herself now being a senior citizen having resided in India for the past 60 years, the Petitioner cannot be rendered stateless.

9. In view of the aforesaid discussion, we remit the matter back to the Respondent No.3-Deputy Collector (GEN), Mumbai Suburban District, Mumbai to consider the Petitioner's Application for Citizenship afresh in accordance with law. The Authority concerned is requested to decide the said matter within a period of three weeks from the date of uploading this order, uninfluenced by the earlier order dated 31st December 2019, impugned herein.

10. Stand over to **29th April 2025**, on the supplementary board.

11. All parties to act on an authenticated copy of this order.

(DR. NEELA GOKHALE, J.) (REVATI MOHITE DERE, J.)