

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.361 OF 2014

Narendra K. Ambwani
residing at 1201-A,
Sterling Sea Face,
Dr. Anne Besant Road, Worli,
Mumbai 400 018. .. Petitioner.

Vs.

1. Union of India
Aykar Bhavan,
Maharshi Karve Road,
New Marine Lines
Mumbai 400 020 ..

2. Regional Passport Officer,
having his office at Bengal
Chemical Building, Veer
Savarkar Marg, Prabhadevi,
Mumbai ..

3. Superintendent of Police,
Central Bureau of Investigation,
Economic Offences Wing-V,
New Delhi .. Respondents.

Mr. N. H. Seervai, Sr. Counsel with S. V. Doijode, C. K. Sancheti i/b
Doijode & Associates for the Petitioner.

Mr. P. S. Jetly with Mrs. S. V. Bharucha with Mr. H. V. Mehta with Mr.
N. D. Sharma for Respondent nos.1 and 2.

Mr. D. A. Athavale for Respondent no.3.

**CORAM : V. M. KANADE &
A. K. MENON, JJ.**

DATED : 13TH MARCH, 2014

ORAL JUDGMENT (PER A. K. MENON, J.)

1. Heard learned counsel for the parties.

2. By this petition, the Petitioner seeks a Writ of Mandamus or any other appropriate writ directing the Union of India and Regional Passport Officer to forthwith extend the validity of the Petitioner's passport by a period of 9 years or 19 years from 26th August, 2014.

3. It appears that in the year 2003, the Central Bureau of Investigation filed a criminal case inter alia against M/s. Johnson & Johnson Ltd. and the Petitioner. The Petitioner was at the material time the President and Managing Director of Johnson & Johnson Ltd. As a consequence, when the Petitioner's passport which was valid till 9th October, 2013 ran out of usable pages, the Petitioner applied for fresh booklet. However, Respondent no.2 cancelled the existing passport instead of issuing an additional booklet. Thereafter, the Petitioner made an application before the learned Additional Chief Metropolitan Magistrate, 19th Court, Mumbai for a direction to the Regional Passport Office to re-issue/renew Passport No.Z1783737. The learned Magistrate by the order dated 23rd May, 2013 passed the following order :

“The Regional Passport Office may consider the Petitioner's prayer for renewal of passport as per

prescribed Rules, as this Court has no objection for normal period.”

4. The order directing renewal of the passport as per prescribed Rules appears to have been misinterpreted by Respondent no.2, who issued a new passport valid for one year. The normal period under the relevant Rule 12 of the Passport Rules, 1960 is 10 years or 20 years. The Petitioner then approached this court by way of Writ Petition No.2786 of 2006 challenging the renewal of passport for limited period of one year. This court disposed of the writ petition by the order dated 13th November, 2006 recording that the Respondents had completely misread the order of the Criminal Court and the passport could not have been cancelled since it was valid till 9th October, 2013. This court directed the Regional Passport Officer to make necessary correction in the passport of the Petitioner within 15 days from the date of order showing the period of validity as of 9th October, 2013.

5. On the same day i.e. 13th November, 2006 an order was passed in Writ Petition (Lodging) No.2520 of 2006 filed by Anil Vasantrao Upadhyay, Company Secretary of M/s. Johnson & Johnson Ltd. which also challenged the action of Respondent no.2 in issuing the passport for a period of one year. The Petitioner in that petition had also applied to the Magistrate's Court and on 20th September, 2006 when the following order was passed :

“The Regional Passport Office, Mumbai is directed to renew the Passport of the applicant, as per the terms & conditions of Passport rules.”

6. This court held that the Rules have been framed under the Passport Act and under Rule 12, a passport other than for a child aged more than 15 years, shall be in force for a period of 10 years or 20 years as the case may be from the date of its issue.

7. In the present case, the Respondents contended that the order of the learned Magistrate did not specify the period for which the passport is issued and in the light of Notification dated 23rd August, 1993 (Annexure “6” to the petition), the passport of the citizen against whom the proceedings are pending in the criminal court in India, shall be issued for a period specified by the court and if no period is specified, the passport shall be renewed for a period of one year. This court held that interpretation of the order of the learned Magistrate dated 20th September, 2006 is contrary to the express language of the order. When the order speaks about renewal of the passport in terms of the Passport Rules, reference must be made to Rule 12 alone and the Passport Officer was bound to issue the passport either for a period of 10 years or for a period of 20 years as the case may be in his discretion. The Passport Officer could not have at any rate renewed the passport for a period less than 10

years. Accordingly, the Rule was made absolute and the Regional Passport Officer was directed to issue the passport, renewed for a period of 10 years or 20 years.

8. The order in Writ Petition (Lodging) No.2520 of 2006 applies squarely to the facts of the Petitioner's case and was obviously within knowledge of the Passport authority, pursuant to the order passed in Writ Petition No.2786 of 2006. The Petitioner's passport was due to expire on 9th October, 2013 and, therefore, in anticipation, the Petitioner applied for renewal of his passport under the Tatkal scheme on or about 26th March, 2013. As aforesaid vide order dated 23rd May, 2013, the learned Magistrate directed the Regional Passport Office to renew the passport as per prescribed Rules as stated above. The learned Magistrate clarified that the court had no objection to renewal of the passport as per prescribed Rules. On or about 12th July, 2013, the Petitioner was informed that since the order of the learned Magistrate did not specify the period for which the passport is to be renewed, the provisions of notification would apply and that the passport would be renewed only for one year. The Petitioner protested this interpretation and vide his Advocate's letter dated 17th October, 2013 put on record the fact that this court had already clarified that if the passport is directed to be renewed under the Rules, Rule 12 alone would apply and the Passport Officer had no authority to renew the passport for less than 10 years. The Petitioner demanded that he be granted renewal of the

passport for a period of 10 years from the date of expiry of the passport. Since no response was received the Petitioner has approached this court for issue of appropriate writ and direction. Despite service of notice on the Respondents, they did not appear and, therefore, this court issued a notice on 17th February, 2014 clarifying that the matter may be proceeded ex parte in absence of the Respondents.

9. On or about 3rd March, 2014, the Respondents filed the affidavit-in-reply of Mr. D. B. Mahajan, Assistant Passport Officer who deposed that the matter of the Petitioner was referred to the Government of India, Ministry of External Affairs and on 26th February, 2014, the Respondents have informed that they had no objection for renewing the passport for normal period of 10 years subject to police verification and other usual conditions as per the Passports Act, 1967 and Passport Manual, 2010. In view of the said affidavit we do not deem it necessary to issue any direction on the issue of renewal of the passport, however, it is desirable that the Respondents put into place a procedure to ensure that similar instances do not recur which would cause unnecessary hardship to other applicants such as the Petitioner.

10. In the circumstances, we propose to issue guidelines to be followed by the Respondents on receipt of the applications for renewal of the passports, in all cases, where the Magistrate's court

has directed that the passports may be renewed as per the "Rules".

11. Accordingly, we issue the following directions :-

(a) In all cases where the Magistrate's court directs renewal of the passports under the Rules, the Passport Rules, 1980 shall apply and passports other than for a child aged more than 15 years shall be renewed for a period of ten years or twenty years as the case may be from the date of its issue. All qualifying applicants are entitled to have passport renewed for atleast ten years. The Regional Passport Office shall renew the passports of such qualifying applicants atleast for ten years.

(b) In case where the passports are valid and the applicants hold valid visas on existing passport, the Regional Passport Officer shall issue the additional booklet to the same passport provided the applicant had obtained permission to travel abroad.

(c) If the learned Magistrate passes an order making the reference to the said Notification No. G.S.R. 570(E) dated 26th August, 1993, the passport shall be renewed only for such period that the Magistrate may specify in the order or as otherwise specified in the said Notification where the passport of the applicant is valid for less than one year, the additional booklet may be issued subject to the orders to be obtained in this behalf only of the Magistrate concerned.

12. For avoidance of doubt, we clarify that the guidelines set out herein will be applicable only in the cases where the learned Magistrate ordered renewal of the passports as per Passport Rules, 1980 and to no other. In other cases, where the learned Magistrate had granted permission to the accused persons to depart from India, the provisions of section 6 (2) (f) of the Passports Act, 1967 and the Notification(s) issued thereunder from time to time by the Ministry of External Affairs or such other competent authority so empowered, will continue to apply and directions permitting the accused persons to depart from India and/or the orders permitting renewal of the passports of such accused persons shall continue to be governed by such Notification(s).

13. The learned counsel for the Petitioner pressed for costs in view of inconvenience that the Petitioner has been put to, despite prior orders of this court. Having perused the affidavit-in-reply and having heard the counsel for Respondent Nos.1 and 2, we are satisfied that Respondent No.2 was acting cautiously and out of abundant caution and in the circumstances there shall be no order as to costs.

(A. K. MENON, J.)

(V. M. KANADE, J.)