

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD  
R/SPECIAL CIVIL APPLICATION NO. 3702 of 2020**

GULAMHUSEN DADAMIYA PIR  
Versus  
UNION OF INDIA

Appearance:

MR.MAULIN RAVAL for MR. MRUGESH A BAROT(6709) for the  
Petitioner(s) No. 1  
VISHAL S AWTANI(7913) for the Petitioner(s) No. 1  
KSHITIJ M AMIN(7572) for the Respondent(s) No. 1

**CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA**

**Date : 17/08/2022**

**ORAL ORDER**

1. Rule. Learned advocate Mr.K.M. Amin waives service of Notice of rule on behalf of respondent No.1.

2. The present writ petition, initially, was filed for issuance of appropriate writ, order or direction, directing the respondent-authority to return the passport of the petitioner bearing No.N5339065 issued on 26.11.2015.

2.1. The petitioner has also prayed for quashing and setting aside communication dated 23.02.2017.

2.2. During the pendency of the petition, the petitioner has prayed for quashing and setting aside the order

dated 03.09.2020, which has been issued with regard to the impounding of his passport.

3. Learned Senior Advocate Mr.Maulin Raval appearing for the petitioner has submitted that in fact the entire exercise undertaken by the respondent passport authorities with regard to the impounding his passport is misconceived as no criminal offence has been registered against the petitioner.

3.1. Learned Senior Advocate, upon instructions, further submitted that as on today the petitioner is not in receipt of any summons issued by any authority with regard to the criminal offence.

3.2. Learned Senior Advocate has further submitted that since the respondent authority is directed to surrender his passport, the petitioner had approached this Court by filing a writ petition being Special Civil Application No.9803 of 2018. He has submitted that by order dated 19.07.2019, the said writ petition was disposed of with a direction to the petitioner to make a fresh application for return of his passport before the concerned authorities

and the respondent-authorities were directed to decide the same in accordance with law.

3.3. Learned Senior Advocate Mr. Raval has submitted that pursuant to the aforesaid directions issued by this Court, the petitioner made an application dated 14.08.2019 and pursuant to the said application, the petitioner was asked to fill up an undertaking vide communication dated 04.11.2019, in view of the Notification No.GSR 570(E) dated 25.08.1993, (at Annexure-'F').

3.4. Learned Senior Advocate has pointed out para No.2 of the undertaking, which mentions for providing the details with regard to the criminal case. It is submitted by him that the petitioner has specifically declared that there is no criminal case pending against him in any Court of law. However, despite such declaration the passport has not been released. Finally, it is submitted that by the impugned order dated 03.09.2020, the petitioner informed that his passport has been impounded by invoking the provisions of Section 10(3)(h) of the Passports Act, 1967.

3.5. Learned Senior Advocate has submitted that in fact, the said provisions will not apply in case of the petitioner and in absence of any such material, the passport of the petitioner cannot be impounded and hence, it is urged that the impugned orders may be set aside.

4. In response to the aforesaid submissions, learned advocate Mr. Amin appearing for the respondent, while placing reliance on the affidavit filed by the petitioner, has submitted that in view of the specific information received by the passport authorities that the petitioner is engaged in some anti-national activities, the Passport Officer vide communications dated 03.12.2020 had requested the Superintendent of Police, Kachchh and Superintendent of Police, Special Branch CID Jaipur, Rajasthan to provide specific material with regard to involvement of the petitioner in any anti-national activities. He has submitted that no material showing the involvement of the petitioner in anti-national activities has been received. Though, prior to the issuance of the aforesaid communications, the Passport

Officer, Ahmedabad was informed that the petitioner is engaged in some anti-national activities.

4.1. Thus, it is submitted that in view of the aforesaid communications, which were received in the year 2016 from the Police Superintendent, Rajasthan, Jaipur, the passport of the petitioner has been impounded.

5. I have heard the learned advocates appearing for the respective parties. The genesis of the impounding of the passport of the petitioner lies in the alleged so called anti-national activities committed by the petitioner. In order to verify such alleged anti-national activities committed by the petitioner, the Passport Officer, Ahmedabad vide communication dated 03.12.2020 addressed to the Superintendent of Police, Kachchh and Superintendent of Police of Rajasthan had requested to supply information in this regard. It was further informed that thorough verification should be done in this matter and the concerned Officer shall be informed, if any adverse material is found against the petitioner since the writ petition is filed before this Court. It is an admitted fact that no materials remotely suggesting the



involvement of the petitioner in any anti-national activities has been produced before this Court. The concerned Officers, from whom such clarification was sought, have also not supplied any relevant information to the respondent-passport authorities.

7. There is no material produced by the respondent to indicate that any criminal offence has been registered against the petitioner. In absence of such materials, the respondents cannot impound the passport of the petitioner by a mechanical order by invoking the provisions of Section 10 (3) (h) of the Passports Act, 1967. It is pertinent to note that initially the case of the passport authority was that the petitioner is involved in some criminal offences, however subsequently, it is alleged that he is indulged in anti-national activities.

8. The impugned order dated 03.09.2020 refers to the provisions of Section 10 (3) (h) of the Passports Act, 1967. Since no material has been produced by the respondent authorities that the petitioner has been involved in any criminal offence despite a specific statement made by him in the writ-petition in this

regard, the invocation of the aforesaid provision by the impugned order dated 03.09.2020 is mis-conceived and misdirected. Hence, the impugned orders require to be quashed and set aside. It is interesting to note that the passport of the petitioner is not impounded by invoking the provisions of Section 10(3)(c) of the Passports Act, 1967, which refers to the impounding of passport, if holder of the passport is involved in any activities, which is against the interest of sovereignty, integrity and the security of India but under Section 10(3)(h) of the Passports Act, 1967, which refers to registration of criminal offence.

9. In view of the aforesaid analysis and observations, the impugned orders are required to be quashed and set aside. The respondents are directed to release the passport of the petitioner bearing No. N5339065 within a period of one month, after receipt of the copy of the writ of this Court. Rule is made absolute.

**(A. S. SUPEHIA, J)**

KUMAR ALOK