

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 10075 / 2017

SUO MOTO

----Petitioner

Versus

1. Union of India Through Secretary, Ministry of Home Affairs,
Govt. of India, New Delhi.

2. State of Rajasthan, Through Chief Secretary, Govt. of
Rajasthan, Jaipur.

----Respondents



For Petitioner(s) : Mr. Kamal Joshi and

Mr. Sajjan Singh Rathore, Amicus Curiae

For Respondent(s) : Mr. K.L.Thakur, Additional Advocate General
with Mr. Rishabh Tayal

Mr. Vipul Singhvi, for UOI

Ms. Seema Kaviya, Additional District
Magistrate (City), Jodhpur

HON'BLE MR. JUSTICE GOVIND MATHUR

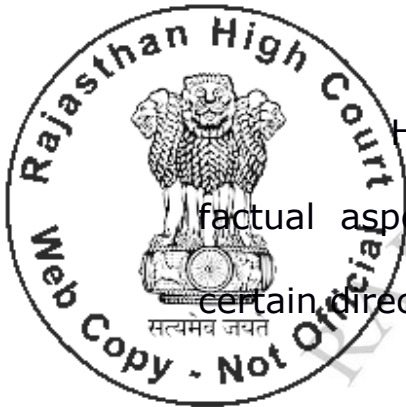
HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

22/09/2017

This Court, by an order dated 17.8.2017, called upon the respondents to explain and resolve the issues relating to grant of Short Term Visas (hereinafter referred to as 'the STVs'), Long Term Visas (hereinafter referred to as 'the LTVs') and citizenship to the migrants from Pakistan belonging to minorities, such as Hindu, Bodh, Jain, Sikh, Parsi and Christian communities.

While responding, it was brought to notice of the Court that the Government of India under a circular dated 10.8.2017 has issued certain directions and also delegated certain powers to the District Magistrates concerned to expedite the process for grant of citizenship.



Having considered all relevant circulars and other factual aspects addressed before the Court, this Court issued certain directions on 1.9.2017 in following terms:-

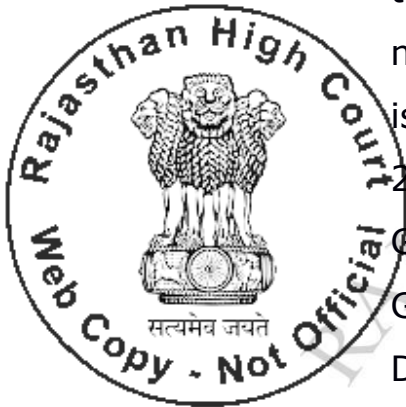
1. The Collector, Jodhpur shall act upon the letters dated 27.6.2017 read with 10.8.2017 at earliest and shall submit a schedule of operation to this Court on or before 11.9.2017;
2. The schedule of operation shall specify the entire programme to act upon the letters referred above and to grant long term visas and ultimately the citizenship of India to the eligible persons;
3. The entire process is required to be completed within a period of 45 days subsequent to 11.9.2017. While doing so, the Collector shall also entertain the applications submitted by the migrants from their changed place, as allowed under the letter dated 19.8.2016;
4. The respondents, in the meanwhile, shall also not deport any Pakistan migrant belonging to minority communities, if he/she has applied for long term visa

or otherwise intend for that without having special reasons for security purposes. If the deportation is necessary for security reasons, then that fact shall also be brought into the notice of the Court immediately;

5. The District Magistrate and Collector, Jodhpur is directed to instruct the District Supply Officer, Jodhpur to invite applications from the Pakistani migrants of minorities to have Ration Cards and the same shall be issued to them in the spirit of the letter dated 20.3.1991 addressed to the Secretary to the Government of Gujarat by the Under Secretary to the Government of India, Department of Home Affairs, New Delhi. If any person concerned applies to have Ration Card, then the application is required to be entertained and acted upon with a final decision at earliest as far as possible within a period of ten days from the date of submission of the application;

6. The District Magistrate and Collector, Jodhpur is directed to issue necessary instructions to the local authorities to ensure cleanliness, scavenging and further to extend other necessary amenities at the camps where the migrants from Pakistan belonging to minorities are staying; and

7. Learned Amicus Curiae may suggest the names of two persons having effective knowledge of the entire issue for the aid and advise to the Collector, Jodhpur to execute all the directions as above effectively. The names of such persons are required to be given to the Collector, Jodhpur by learned Amicus Curiae through the Additional Advocate General Shri K.L.Thakur by tomorrow. The Collector shall consult and have suggestions from the persons nominated."



On 12.9.2017, the Additional District Magistrate (City), Jodhpur placed on record a complete schedule to execute the directions given by this Court and also apprised us with facts relating to other steps taken by the District Administration, Jodhpur to meet with the issue in question.



Having considered all facts, the Court considered it appropriate to adjourn the petition for writ for 18.9.2017 with further directions to have a schedule of operation for entire State of Rajasthan to address the problems of similarly situated migrants having camps or otherwise staying in the districts other than Jodhpur in the State of Rajasthan. A direction was also given to the Collector, Jodhpur to have a meeting with the persons nominated as per the order dated 1.9.2017 to have necessary aid, advise and assistance to meet with the problems of the migrants.

It is brought to our notice today by learned Additional Advocate General that the Collector, Jodhpur had a meeting with the persons nominated and citizenship has already been awarded to three persons. It is further submitted that the process to grant citizenship is in progress and shall be completed expeditiously.

Shri Kamal Joshi, learned Amicus Curiae with Shri Sajjan Singh Rathore, Advocate, while accepting and appreciating the steps taken by the respondents, urged that yet several steps

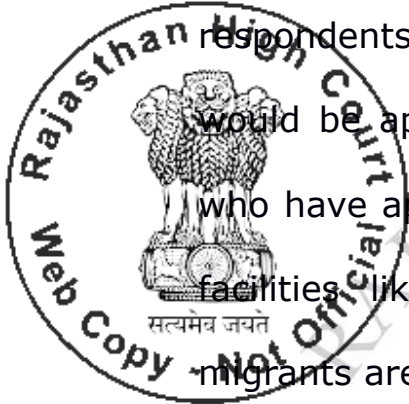
are required to be taken to achieve the task in hand. Shri Joshi pointed out that the respondents are accepting online applications for grant of LTVs and citizenship, but as a matter of fact the offline applications submitted upto the year 2015 are yet pending and no decision thereon is taken so far. According to Shri Joshi, most of the applications are complete in all respect but of no consequence

as the respondents have not acted upon so far. Shri Joshi candidly states that there may be few applications having certain deficiencies but the respondents are not having any systematic mode to convey the person concerned to satisfy the deficiencies and to proceed ahead. Learned Amicus Curiae suggests to have

camps of the competent authorities to resolve such minor issues at the places where the migrants are camping. As per Shri Kamal Joshi, learned Amicus Curiae, the Foreigners Registration Officer by acting upon the applications given by the migrants grants STVs i.e. for a period of six months. A LTV is required to be given in currency of STV. The predicament of the migrants is that the respondents do not act upon within a period of six months during which the STV remains in currency and that ultimately causes delay in entire process as the person concerned loses his eligibility on expiry of STV. Such person is required to apply afresh for STV. It is asserted that a direction must be given to the authority competent for grant of LTV to act upon as early as possible after receiving an application for grant of LTV/citizenship. Shri Joshi further pointed out that as per the Ministry of Home Affairs (Foreigners Division), Government of India circular dated 19.8.2016, the State Governments are authorised to regularise



stay of migrants, if they have been moved to a place other than the place for which STV is granted and also permit them to apply for LTV at their present place of residence. The respondents, in spite of clear directions of the Government of India, are not accepting such application for grant of LTVs. Learned Amicus Curiae, while accepting that some steps have been taken by the respondents to issue Ration Card to the migrants, submits that it would be appropriate to issue Ration Cards even to the persons who have applied for LTVs/citizenship and further to provide basic facilities like water and electricity at the camps where the migrants are residing.



Mrs. Shweta Dhankar, Foreigners Registration Officer present in person, states that no application for grant of STV is pending at her level. According to her, offline applications for grant of LTVs too were forwarded to the Ministry of Home Affairs and those are to be considered and decided by the authorities competent to award LTV/citizenship. With regard to the basic amenities, which are to be made available at the camps where migrants are residing, learned Additional Advocate General submits that necessary directions in this regard have already been issued and all the amenities desirable shall be extended at earliest. Shri Vipul Singhvi, learned counsel appearing on behalf of Union of India, submits that the applications said to be pending with Ministry of Home Affairs shall be considered and decided in accordance with law at earliest.

Having considered the facts available, we deem it appropriate to issue further directions as follows:-

1. The issues sought to be addressed in this petition for writ are not confined to the district of Jodhpur only but for number of districts in the State of Rajasthan, hence, we deem it appropriate to have a State Level Committee to advise the Government of Rajasthan in relation to different issues pertaining to the migrants from Pakistan belonging to minorities. Accordingly, a committee consisting of three eminent persons viz. (1) Justice Shri H.R.Panwar, Judge, Rajasthan High Court (Retired), resident of 108 A-113 B, Kanishka Resort, Near Delhi Public School, Pal Bypass Road. Jodhpur; (2) Shri Hindu Singh Sodha, President, Lok Seemant Sangathan, resident of Pokharan House, Near Jodhpur Development Authority, Jodhpur and Shri Kanti Lal Thakur, Additional Advocate General to the Government of Rajasthan is constituted to advise and monitor the entire process relating to grant of citizenship, LTVs and STVs to the migrants from Pakistan belonging to minorities. The competent officers of the State of Rajasthan shall apprise the committee about all the steps already taken and are to be taken at earliest, as far as possible on or before 26.9.2017. The committee shall then provide its inputs and advise to the authorities concerned to act as required;

2. The applications submitted offline for grant of LTVs/citizenship by the migrants from Pakistan belonging to

minorities shall positively be considered and decided at earliest, as far as possible within a period of 60 days from today. If any application suffers from any deficiency, then such deficiency shall be communicated to the person concerned at the address given by him through incharge of the police station within the jurisdiction of which the place of resident of such person is situated. An opportunity shall be given to such person to remove the deficiency, if possible at earliest;



The applications submitted online too shall be considered and decided by the competent authorities expeditiously, as far as possible within a period of 60 days from today;

4. The respondents shall accept the applications from the migrants as per para 5 of the Government of India, Ministry of Home Affairs letter dated 19.8.2016 and in no case shall refuse to accept the application in contravention of the guidelines issued by the Government of India under the circular aforesaid and other instructions issued time to time; and

5. The respondents shall also ensure the basic amenities such as light, water, medical, primary education etc. at the camps of the migrants from Pakistan belonging to minorities.

A copy of this order be sent to the eminent persons nominated to the monitoring committee by this Court.

Let this writ petition be re-notified on 27.11.2017. The respondents shall file a compliance and progress report on or before next date of hearing.



(VINIT KUMAR MATHUR) J.

(GOVIND MATHUR) J.

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