

Court No. - 1

Case :- HABEAS CORPUS WRIT PETITION No. - 585 of 2020

Petitioner :- Chinasa Victor Obioha And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Atul Ojha, Balesh Tripathi

Counsel for Respondent :- G.A., A.S.G.I., Bal Mukund

Hon'ble Ramesh Sinha, J.

Hon'ble Samit Gopal, J.

Heard Sri Balesh Tripathi, learned counsel for the petitioners, Km. Meena, learned A.G.A. for the State, Sri Bal Mukund, learned counsel appearing on behalf Union of India-respondent no. 4 and perused the record.

Sri Bal Mukund, learned counsel appearing for respondent no. 4 states that in compliance of Court's order dated 10.11.2020, he has sent an e.mail on 10.11.2020 itself and also sent a letter through speed post on 12.11.2020 to the Secretary, Ministry of Home Affairs, Government of India, New Delhi which was delivered in the Office of the said authority yesterday, i.e., on 17.11.2020 but in spite of the said communications being sent to respondent no. 4, the concerned authority has not responded to his correspondences, hence he has not received instructions in the matter.

Km. Meena, learned A.G.A. has produced a copy of the instruction received by her from the Additional Police Commissioner, Head Quarter, Gautam Budh Nagar dated 16.11.2020 whereby it has been informed that the two petitioners, namely, Chinasa Victor Obioha and Chima Paul Ugochukwu came to India on 26.12.2010 and 5.1.2010 respectively and as their respective Visa expired in the year 2011 and 2010 and they were present in the country without any valid Visa, hence they were arrested on 24.9.2019. It is further stated that for obtaining relevant travel documents of the petitioners, letter dated 25.9.2019 was sent to the Nigerian Embassy and later on reminders dated 7.5.2020 and 23.6.2020 were also sent and copies of the said letters were sent to Superintendent of Police (F) Abhisuchna Headquarter U.P., Lucknow.. The Ministry of Home Affairs, Government of India was also vide letters dated 2.6.2020, 12.6.2020 and 24.7.2020 requested for their deportation, who in response to the same, sent a letter dated 23.7.2020 to the Nigerian Embassy for deportation of the petitioners. It is further pointed out that the petitioners are being provided all the necessary facilities in the Camp where they have been detained like hygiene, health inspection and also precaution against Covid-19 pandemic is also being regularly undertaken.

It is unfortunate that the petitioners, who have come to this Court by challenging their illegal detention by the authority, have concealed the material fact that their Visa had already expired and they have remained in the country without any valid Visa for about nine years and on account of the said fact, they have been arrested by the police on 24.9.2019. When a pointed query was made about the concealment of the said fact, learned counsel for the petitioners failed to give any satisfactory reply.

The Additional Commissioner of Police, Gautam Budh Nagar is directed to file his personal affidavit in the matter within three days bringing on record the instruction which has been placed by learned A.G.A. before the

Court today.

The Competent Authority of the Union of India-respondent no. 4 shall also file his personal affidavit in this regard by the next date fixed failing which he shall appear in person before this Court on the next date fixed. The Competent Authority of Union of India shall also inform this Court what reply it has received from the Nigerian Embassy in pursuance of its communication dated 23.7.2020.

Let the matter be listed on 24th of November, 2020 in the additional cause list.

The instructions filed by learned A.G.A. today is taken on record.

Office is directed to prepare a regular file also of the present case.

The party shall file computer generated copy of order downloaded from the official website of High Court Allahabad, self attested by it alongwith a self attested identity proof of the said person(s) (preferably Aadhar Card) mentioning the mobile number(s) to which the said Aadhar Card is linked, before the concerned Court/Authority/Official.

The concerned Court/Authority/Official shall verify the authenticity of the computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 18.11.2020

Shiraz