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HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT – C No. -21876 of 2021

Mohd Yunus Ansari .....Petitioners(s)

Versus

Union of India and Another .....Respondents(s)

Counsel for Petitioners(s) : Shailendra Singh
Counsel for Respondent(s) : A.S.G.I. Arun Kumar Pal

Court No. -1

HON'BLE AJIT KUMAR, J.
HON'BLE INDRAJEET SHUKLA, J.

(Per: Indrajeet Shukla, J.)

For the convenience of exposition, this judgement is divided into the following parts:

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1. Heard Shri Shailendra Singh, learned counsel for the petitioner and Shri Arun Kumar Pal, learned counsel for the respondent-Union of India.

2. The petitioner has knocked the doors of this Court invoking prerogative writ jurisdiction seeking a writ in the nature of certiorari to quash the impugned order dated 19.03.2021 (Annexure No.8 to the writ petition) refusing issuance of passport in favour of the petitioner, precisely assigning the reason that petitioner failed to respond to the notice dated 31.12.2020 disclosing the final outcome of criminal cases pending against him and further it has been asserted that in view of adverse police report, issuance of passport is not possible. The petitioner further prayed for issuance of writ of mandamus commanding and directing the second respondent/Regional Passport Officer, Gomti Nagar, Lucknow to issue passport in his favour.

A. FACTUAL MATRIX

3. The facts giving rise to institution of the instant writ petition are, petitioner applied for issuance of passport by submitting an application on 29.01.2020 and, thereafter, instituted Civil Misc. Writ Petition No.12922 of 2020 before this Court, which was decided vide order dated 31.08.2020 with a direction that if petitioner approaches second respondent, he shall communicate the decision taken by him at the earliest qua the application pending before him for issuance of passport.

4. Since no decision was taken as such petitioner filed a Contempt Application bearing No.684 of 2021 before this Court alleging non-compliance of order dated 31.08.2020 and it is during pendency of said Contempt Application but the impugned decision refusing passport to the petitioner was taken vide order dated 19.03.2021, which is under challenge before this Court.

5. Pleadings in present proceedings have been exchanged. The reason set-out by the respondent-authorities for refusal of passport as mentioned in the order impugned as well as in the counter affidavit is, petitioner had faced criminal trial in Case Crime No.219 of 2010, under Sections 363, 366, & 376 IPC, Police Station Gagha, District Gorakhpur has been convicted.

6. The petitioner having been found to be minor in conflict with law was tried as juvenile by the Juvenile Justice Board, Gorakhpur and was ultimately convicted in Case Crime No.219 of 2010, under Sections 363, 366, & 376 IPC vide judgement and order dated 13.08.2013. The said judgement has been brought as Annexure No.4 to the writ petition. While recording the conviction, learned Juvenile Justice Board admitted the petitioner for probation of six months with the condition that petitioner would offer surety and bonds for maintaining good conduct and behaviour.

7. In furtherance of judgment and order dated 13.08.2013, petitioner maintained good conduct and behaviour for the period specified by learned Juvenile Justice Board, as such petitioner has been issued the Character Certificate on 20.03.2014 by District Probation Officer, District Gorakhpur, mentioning therein that petitioner had maintained good conduct and behaviour during period of probation. The certificate so issued by District Probation Officer, Gorakhpur on 20.03.2014 has been brought on record by means of Annexure No.5 to the writ petition. There is no quarrel with respect to genuineness of such certificate.

8. The petitioner has placed on record his High School Certificate as Annexure No.1 to the writ petition, which records date of birth of petitioner as 18.05.1993, so, on the date of alleged commission of offence dated 01.03.2010 reported by virtue of Case Crime No.219 of 2010, the petitioner was aged about 16 years and 10 months. Thus, the petitioner was tried having been found in conflict with law, as a juvenile by Juvenile Justice Board and was

convicted as such vide judgment and order dated 13.10.2013, but nothing adverse had been reported against him while he was placed on probation.

9. In this background the petitioner's application for issuance of passport dated 29.01.2020, which was processed, same came to be rejected on the basis of police report indicating pendency of criminal case.

B. ISSUE/QUESTION INVOLVED

10. The core issue for consideration and determination by this Court is "whether conviction recorded against the petitioner (the then Juvenile) having been found in conflict with law and tried by Juvenile Justice Board can be treated as a legal impediment for issuance of a valid passport in favour of the petitioner".

C.SUBMISSIONS ADVANCED ON BEHALF OF THE PETITIONER

11. Learned counsel for the petitioner submitted that the order impugned refusing passport is a cryptic one and has been passed for sheer annoyance of contempt proceedings initiated against authority concerned, by twisting the facts giving an impression that proceeding is pending against the petitioner.

12. Learned counsel for the petitioner further submitted that there is absolutely no pendency of any criminal case, as such respondent-authority had erred in refusing the passport to the petitioner through a cryptic order without assigning any cogent reason. In order to buttress his submissions, learned counsel for the petitioner has relied upon the judgement of Hon'ble Supreme Court in the case of **State of Rajasthan Vs. Rajendra Prasad Jain reported in (2008) 15 SCC 711** wherein the Hon'ble Supreme Court has held that "r**eason is the heart beat of every conclusion, and without the same it becomes lifeless"**. In absence of cogent reason and failure in considering the material in its correct perspective, the

decision making process stands vitiated and interference by this Court is warranted.

13. Supreme Court in the case o**f Chandana Impex Pvt. Ltd. Vs. Commissioner of Customs, New Delhi, 2011(269)E.L.T. 433 (S.C.)(para 8)** held as under :

> *"8. Having bestowed our anxious consideration on the facts at hand, we are of the opinion that there is some merit in the submission of learned counsel for the appellant that while dealing with an appeal under Section 130 of the Act, the High Court should have examined each question formulated in the appeal with reference to the material taken into consideration by the Tribunal in support of its finding thereon and given its reasons for holding that question is not a substantial question of law. It needs to be emphasised that every litigant, who approaches the court for relief is entitled to know the reason for acceptance or rejection of his prayer, particularly when either of the parties to the lis has a right of further appeal. Unless the litigant is made aware of the reasons which weighed with the court in denying him the relief prayed for, the remedy of appeal will not be meaningful. It is that reasoning, which can be subjected to examination at the higher forums. In State of Orissa Vs. Dhaniram Luhar2 this Court, while reiterating that reason is the heart beat of every conclusion and without the same, it becomes lifeless, observed thus :*
>
> > *"8.....Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made;....."*

14. Learned counsel for the petitioner further submitted that the reasons in order are of essence in administrative/judicial proceedings. Every litigant who approaches the Court/authority with a prayer is entitled to know the reasons for acceptance or rejection of such request. Hon'ble Supreme Court held in the case of **The Secretary & Curator, Victoria Memorial v. Howrah Ganatantrik Nagrik Samity and ors., JT 2010(2)SC 566 para 31 to 33** held as under:-

> *"31. It is a settled legal proposition that not only administrative but also judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the Court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the Court to record reasons while disposing of the case. The hallmark of an order and exercise of judicial power by a judicial forum is to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration justice - delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before Courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the Court concerned had really applied its mind. " [Vide State of Orissa Vs. Dhaniram Luhar (JT 2004(2) SC 172 and State of Rajasthan Vs. Sohan Lal & Ors. JT 2004 (5) SCC 338:2004 (5) SCC 573].*
>
> *32. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. [Vide Raj Kishore Jha Vs. State of Bihar & Ors. AIR 2003 SC 4664; Vishnu Dev Sharma Vs. State of Uttar*

Pradesh & Ors. (2008) 3 SCC 172; Steel Authority of India Ltd. Vs. Sales Tax Officer, Rourkela I Circle & Ors. (2008) 9 SCC 407; State of Uttaranchal & Anr. Vs. Sunil Kumar Singh Negi AIR 2008 SC 2026; U.P.S.R.T.C. Vs. Jagdish Prasad Gupta AIR 2009 SC 2328; Ram Phal Vs. State of Haryana & Ors. (2009) 3 SCC 258; Mohammed Yusuf Vs. Faij Mohammad & Ors. (2009) 3 SCC 513; and State of Himachal Pradesh Vs. Sada Ram & Anr. (2009) 4 SCC 422].

33. Thus, it is evident that the recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as why his application has been rejected."

(emphasis added by us)

15. Learned counsel for the petitioner strenuously urged that the reasoning regarding pendency of criminal case is completely unfounded from the material available on record. The conviction even if was recorded by the Juvenile Justice Board, the same could not have formed the foundation for refusal of passport, as the conviction recorded against a juvenile cannot be read as stigmatic one against petitioner.

16. Submission advanced by learned counsel for the petitioner is, that order of refusal of passport is a result of anguish at the end of respondent for contempt proceedings drawn against them before this Court.

D. SUBMISSIONS ADVANCED ON BEHALF OF RESPONDENTS

17. The counsel representing the Union of India-respondents endevoured hard to defend the order of refusal of passport on the strength of conviction recorded against petitioner by the Juvenile Justice Board.

18. Learned counsel for the respondents-Union of India Mr. Pal submitted that the petitioner is a previous convict, as such the application for issuance of passport has rightly been turned down and the further submission is that even during pendency of criminal proceedings, the passport can be refused based on provisions as contained under Section 6 (2) (f) of Passport Act.

E. DISCUSSION AND ANALYSIS

19. Before going into the crux of the matter at hand, we deem it necessary to reproduce the principal statutory provisions which bear on the controversy in the present case. Section 5 of the Passports Act, which deals with applications for passports and orders thereon, provides as follows:

> **"5. Applications for passports, travel documents, etc., and orders thereon**
>
> *(1) An application for the issue of a passport under this Act for visiting such foreign country or countries (not being a named foreign country) as may be specified in the application may be made to the passport authority and shall be accompanied by such fee as may be prescribed to meet the expenses incurred on special security paper, printing, lamination and other connected miscellaneous services in issuing passports and other travel documents.*
>
> *Explanation. - In this section, 'named foreign country' means such foreign country as the Central Government may, by rules made under this Act, specify in this behalf.*
>
> *(1A) An application for the issue of-*
>
> *(i) a passport under this Act for visiting a named foreign country; or*
>
> *(ii) a travel document under this Act for visiting such foreign country or countries (including a named foreign country) as may be specified in the application or for an endorsement on the passport or travel document referred to in this section, may be made to the passport authority and shall be accompanied by such fee (if any), not exceeding rupees fifty, as may be prescribed. (1B) Every application under this section shall be in such form and contain such particulars as may be prescribed.*
>
> *(2) On receipt of an application under this section, the passport authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing, -*
>
> *(a) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign country or countries specified in the application; or*
>
> *(b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign countries specified in the application and refuse to make an endorsement in respect of the other country or countries; or*
>
> *(c) refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement.*
>
> *(3) Where the passport authority makes an order under clause (b) or clause (c) of sub-section (2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such copy."*
>
> *(emphasis added)*

20. Section 6 of the Passports Act, which deals with refusal of passports and travel documents, in so far as it is material, provides:

> ***"6. Refusal of passports, travel documents, etc.-***
>
> *(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:-*
>
> *(a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;*
>
> *(b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;*
>
> *(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country; (d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.*
>
> *(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:-*
>
> *(a) that the applicant is not a citizen of India;*
>
> *(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;*
>
> *(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;*
>
> *(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;*
>
> *(e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;*
>
> *(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;*
>
> *(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;*
>
> *(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;*
>
> *(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest."*
>
> *(emphasis added)*

21. The law mandates not to attach any stigma with juvenile convicts and 'principle of fresh start' read with 'right to be forgotten' is essence for such subject which emerges from plain reading of

Section 19 of Act, 2000. For ready reference Section 19 of the Juvenile Justice Act, 2000 is quoted as hereunder:-

> ***"19. Removal of disqualification attaching to conviction:-*** *(1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act* ***shall not suffer disqualification, if any, attaching to a conviction of an offence under such law,***
>
> *(2) T****he Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be."***
>
> *(emphasis added)*

22. The law with respect to juveniles has got a sea change but still the juvenile continue to enjoy the protection against stigma on account of conviction, if so recorded. Section 25 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "Act, 2015") came into force on 15th January, 2016 and by virtue of Section 25 of the aforesaid Act it has been provided as under:-

> ***"25. Notwithstanding anything contained in this Act, all proceedings in respect of a child alleged or found to be in conflict with law pending before any Board or court on the date of commencement of this Act, shall be continued in that Board or court as if this Act had not been enacted."***

23. Not only the proceedings instituted prior to commencement of the Act, 2015 would be governed by old laws but their after effects are also to be controlled, regulated and governed as per the Act, 2000, which provides that the conviction recorded under the procedure laid down by Act of 2000 would not attach any disqualification and further law mandates that the relevant records of such conviction shall be removed after the expiry of period of appeal or a reasonable period as prescribed under the Rules. Thus, on one hand such conviction cannot be said to be stigmatic, on the other hand such conviction would not inhere disqualification either for employment or for any other purposes and such convicts need to be brought into main stream of society.

24. A bare reading of Section 19 (1) makes it clear that it starts with non-obstante clause excluding the applicability of any other law in

the matters of juveniles and clearly provides that a juvenile, who has committed an offence and has been dealt under the provisions of the Act shall not suffer disqualification attaching to a conviction of an offence under such law. It means that even if a juvenile is convicted for an offence committed by him, his conviction would not be treated as a disqualification.

25. There is not even iota of doubt that Section 19 of Act of 2000 clearly provides that as a direct consequence, any disqualification entailing from conviction would have to be ignored and cannot act to the detriment of the child in conflict with law in any manner.

26. This court is conscious of the "**right to be forgotten**, which has been referred and dealt with in order dated 12.04.2021 passed by Supreme Court in the case of **Jorawer Singh Mundy @ Jorawar Singh Mundy Vs. Union of India and Ors. (WP(C)3981/2011)** observing that in the cases of juvenile delinquency, if any criminal antecedent record of a juvenile is allowed to remain intact, to be accessed, amongst others, by using the technology tools, the same may not only bring humiliation and discredit to the juvenile, but may also adversely impact the future prospects of the juvenile, amongst other things.

27. This Court does not wish to enter into the realm of broader **'right to be forgotten',** but, at present, is specifically considering the 'right to be forgotten' for a juvenile in the perspective of Section 24 of the Act of 2015 to be an absolute right for safeguarding future prospects of such juvenile.

28. Such a disclosure would not only affect the **'right to be forgotten'** of a juvenile, but would also defeat the very purpose and would be against the very intent of the legislature in enacting the Act of 2015, and incorporating Section 24 therein. When future employment prospects of a juvenile are intended to be protected even such actions would adversely affect, the rehabilitation of the

juvenile and his socio-economic stability would also be adversely impacted, which may lead the juvenile to again resort to the criminal delinquency. This is more so when, the present day developing societies are dynamic and self-explanatory in its complexities followed by never-ending changes, and the juvenile is no exception to it, rather much more vulnerable, because the negativity of his (juvenile's) past life, despite enactment of a much strong law like the Act of 2015, legislative intent of which is to remove his criminal antecedents from the record, rather destroying of the complete record thereof, if allowed to sustain and remain intact, the same would be revisited for oblivious reasons, against the welfare and future well being of the juvenile, thereby bringing future embarrassments to the juvenile.

29. Section 12 of the Probation of Offenders Act, 1958, speaks of 'removal of disqualification attaching to conviction', but the language employed in Section 24 of the Act of 2015 is not only for excluding or erasing the criminal antecedent record, but goes a step forward, by laying down a provision that the criminal antecedent record of a juvenile be erased/destroyed completely, so that such previous conviction or criminal delinquency of a juvenile would not be carried forward, so as to prevent any adverse impact of his previous delinquency, upon his future prospects.

30. From a conspectus of the above factual matrix and the law applicable, it is crystal clear that Section 6(2) (f) of the Act, 1967 makes it specific that if proceeding in respect of an offence alleged to have been committed by an applicant are pending before criminal law in any Court, it can be one of the reasons for refusal of passport but same is not the case in hand as respondent-Union of India has failed to demonstrate pendency of any criminal case against petitioner.

31. A coordinate bench judgement of this Court dated 10.10.2025 rendered in the case of **Rahimuddin vs. Union of India (Writ-C**

No.34412 of 2025) provides that where an applicant seeking passport if faces a criminal case, he/she shall have to obtain permission of concerned criminal Court in the first instance to travel abroad. The law further provides that in the event such applicant moves such application stating the period for which he wants passport to be issued, the Court shall pass an appropriate order disposing of the same finally by both sanctioning foreign country travel and specifying the duration for which foreign country travel is being permitted and whereupon passport may be issued accordingly.

32. Since there is absolutely no pendency of any criminal case pointed out by any of the parties, as such the ratio laid down in the case of **Rahimuddin (supra)** is not applicable to the controversy in question. The only point, which has been brought on record by virtue of counter affidavit is conviction recorded against petitioner by Juvenile Justice Board, which cannot be read as a disqualification for future recourses.

The right to travel abroad is enshrined in Article 21 of Constitution of India

33. Having heard learned counsel for the respective parties and having perused the record, it is no more *res-integra* that right to travel abroad is encompassed within the ambit of right to life and personal liberty. It has been held to be fundamental right by Constitution Bench of Supreme Court in the case of **Maneka Gandhi v. Union of India, (1978) 1 SCC 248** wherein it was held that the right to travel is encompassed within the ambit of the right to life and personal liberty, and that any administrative action impinging upon such right must satisfy the test of fairness, reasonableness and non-arbitrariness. It was observed by Justice M.H. Beg that:

> *"193. It seems to me that there can be little doubt that the right to travel and to go outside the country, which orders regulating issue, suspension or impounding, and cancellation of passports directly affect, must be included in rights to "personal liberty" on the strength of decisions of this Court giving a very wide ambit to the right to personal liberty (see : Satwant Singh Sawhney v. D. Ramarathnam, Assistant Passport Officer, Government of India, New Delhi & Ors. AIR 1967 SC 1836, Kharak Singh v. State of U.P. & Ors. AIR 1963 SC 1295.*

Justice Beg further observed that:

> *"226. Even executive authorities when taking administrative action which involves any deprivation of or restriction on inherent fundamental rights of citizens must take care to see that justice is not only done but manifestly appears to be done. They have a duty to proceed in a way which is free from even the appearance of arbitrariness, unreasonableness or unfairness. They have to act in a manner which is patently impartial and meets the requirements of natural justice."*

34. In the case of **Maneka Gandhi** (supra) it was held that the citizen of the country has a constitutional right to go abroad and impairment of such a right cannot be done without observing the principles of natural justice. For ready reference relevant paragraphs of Maneka Gandhi (supra) are quoted hereunder:-

> *"5. That "personal liberty" within the meaning of Article 21 includes within its ambit the right to go abroad and consequently no person can be deprived of this right except according to procedure prescribed by law. Prior to the enactment of the Passports Act, 1967, there was no law regulating the right of a person to go abroad and that was the reason why the order of the Passport Officer refusing to issue passport to the petitioner in Satwant Singh case* ***[AIR 1967 SC 1836 : (1967) 3 SCR 525 : (1968) 1 SCJ 178]*** *was struck down as invalid. It will be seen at once from the language of Article 21 that the protection it secures is a limited one.*
>
> *73. From the point of view of comparative law too, the position is well established. For, one of the essential attributes of citizenship, says Prof Schwartz, is freedom of movement. The right of free movement is a vital element of personal liberty.* ***The right of free movement includes the right to travel abroad.*** *So much is simple textbook teaching in Indian, as in Anglo-American law. Passport legality, affecting as it does, freedoms that are "delicate and vulnerable, as well as supremely precious in our society", cannot but excite judicial vigilance to obviate fragile dependency for exercise of fundamental rights upon executive clemency. So important is this subject that the watershed between a police State and a Government by the people may partly turn on the prevailing passport policy. Conscious, though I am, that such prolix elaboration of environmental aspects is otiose, the Emergency provisions of our Constitution, the extremes of rigour the nation has experienced (or may) and the proneness of power to stoop to conquer make necessitous the hammering home of vital values expressed in terse constitutional vocabulary."*

35. Refusal of issuance of passport by competent authority also entails civil consequences as such due application of mind with cogent reasons is *sine qua non* for such refusal.

36. The Supreme Court in the case of **Satwant Singh Sawhney Vs. D. Ramarathnam, Asstt. Passport Officer [AIR 1967 SC 1836] h**eld that the right to travel abroad falls within the scope of personal liberty enshrined under Article 21 of the Constitution of India and that no person can be deprived of his right to travel except according to the procedure established by law. After this decision was rendered, the Passport Act, 1967 was enacted by parliament and it laid down the circumstances under which a passport may be

issued or refused or cancelled or impounded and also prescribed a procedure for doing so.

37. A seven judge bench of Hon'ble Supreme Court in **Maneka Gandhi** (supra) declared that no person can be deprived of his right to go abroad unless there is a law enabling the State to do so and such law contains fair, reasonable and just procedure. It held:

> "……*Thus, no person can be deprived of his right to go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21."*

38. It is no more *res integra* that the right to travel abroad is an important basic human right as held in the case of **Satish Chandra Verma Vs. Union of India & others, [(2019) SCC OnLine SC 2048]** and such a right cannot be prevented from being exercised without due process of law.

39. It is well settled that an order, which has civil consequences must be passed after giving opportunity of hearing to a party as held in the case of **State Of Orissa vs Dr. (Miss) Binapani Dei & Ors** reported in **1967 AIR 1269.**

40. The question of disqualification owing to conviction recorded against the juvenile found in conflict with law for future employment etc, came up for consideration of Supreme Court in the case of **Union of India and others vs. Ramesh Bishnoi** reported in **(2019) 19 SCC 710,** wherein the Hon'ble Supreme Court has held that the juvenile convict being a minor at the time of commission of offence, the conviction cannot be read against him particularly when the law mandates for **'principle of fresh start'.**

41. Supreme Court also had the occasion to consider the mandate of law enshrined under Section 24 of the Act, 2015, which provides for **rehabilitation and reintegration of juveniles** into

society free from stigma of their past conflict with law coupled with mandate contained in Section 3 (xiv) of Act of 2015, which encompasses the principle of fresh start. For ready reference Section 3 (xiv) of Act of 2015 is quoted hereunder:-

> *"(xiv) Principle of fresh start: All past records of any child under the juvenile justice system should be erased except in special circumstances."*

42. Liberty, being an obligation of the State enshrined under Chapter III of the Constitution of India confering a right in favour of citizen to travel, which includes travel abroad for livelihood subject to law, and such obligation is also a necessary concomitant to Article 21 read with Article 43 of the Constitution of India. There is no iota of doubt the State may regulate or restrain such freedom in the interest of justice, security or public order, but any such restraint must necessarily be confined and proportionate to the object sought to be achieved.

43. Supreme Court in the case of **Mahesh Kumar Agarwal Vs. Union of India** reported in **2025 SCC OnLine SC 2887** has held that denial or renewal of passport does not operate in a vaccum. Relevant paragraphs of the aforesaid judgement are quoted as under:-

> ***"20.It must also be noted that denial of renewal of a passport does not operate in a vacuum. This Court has repeatedly held in a catena of judgements6 that the right to travel abroad and the right to hold a passport are facets of the right to personal liberty under Article 21 of the Constitution of India. Any restriction on that right must be fair, just and reasonable, and must bear a rational nexus with a legitimate purpose.***
>
> *22. It is important to keep distinct the possession of a valid passport and the act of travelling abroad. A passport is a civil document that enables its holder to seek a visa and, subject to other laws and orders, to cross international borders. Whether a person who is on bail or facing trial may actually leave the country is a matter for the criminal court, which can grant or withhold permission, impose conditions, insist on undertakings, or refuse leave altogether. In the present case, both criminal courts have done exactly that. To refuse renewal on the speculative apprehension that the appellant might misuse the passport is, in effect, to second-guess the criminal courts' assessment of risk and to assume for the passport authority a supervisory role which the statute does not envisage."*
>
> *(emphasis added by us)*

44. The thrust of the legislation i.e. Act, 2000 as well as the Act, 2015 is that even if a juvenile is convicted, the same should not be obliterated, so that there is no stigma with regard to any crime committed by such person as a juvenile. This is with the clear object to re-intigrate such juvenile into the society as a normal person without any stigma.

45. Since the offence for which petitioner being juvenile was tried with, was allegedly committed in the year 2010 and the conviction order itself was passed in the year 2013 thus, the old law pertaining to juvenile viz Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as “Act, 2000”), the Uttar Pradesh Juvenile Justice (Care and Protection of Children) Rules, 2004 (hereinafter referred to as “Rules, 2004”) as well as the Uttar Pradesh Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as “Rules, 2007”) are worth consideration for appreciation of the controversy in question.

46. The Statute with respect to juvenile has been framed with an object to minimise the stigma in keeping with the developmental needs of the juvenile or the child. Statutory law is two parts is two parts-one for juveniles in conflict with law; and the other for the juvenile or the child in need of care and protection; to provide for effective provisions and various alternatives for rehabilitation and social re-intigration such as adoption, foster care, sponsorship and after care of abandoned, destitute, neglected and delinquent juvenile and child are welfare legislations. Thus, the provisions of the Act are required to be read and interpreted in the spirit in which in the collective wisdom of legislature has enacted it.

47. Any restriction on the petitioner’s right to hold passport or travel abroad must satisfy the mandate of Article 21 of Constitution of India namely fairness, reasonableness and proportionality.

F. CONCLUSION

48. Thus, this Court holds that writ petitioner is entitled to the protection of law mandated under Section 19 of Act of 2000. By virtue of the non-obstante clause contained therein particularly any disqualification attaching to the conviction recorded by the Juvenile Justice Board stands removed notwithstanding anything contained in any other law.

49. Since no criminal proceedings are pending against the petitioner, thus, recording of pendency of criminal case in the order impugned exhibits complete non-serious attitude of respondent-authorities and is a monument of non-application of mind, the ground contemplated under Section 6 (2) (f) of Passport Act, 1967 are not attracted in the case in hand as this is wholly unavailable to the respondents. Further, the conviction recorded against the petitioner as a juvenile cannot be treated as a legal impediment for issuance of passport by operation of law contained in Section 19 of Act of 2000.

50. The respondents are further bound to give full effect to the principle of **'fresh start'** embodied in juvenile statute, so that past juvenile delinquency does not impair the future prospects and rehabilitation/reintigration of the petitioner.

51. It is further directed that the '**right to be forgotten'** for juvenile by removing/ destroying record of juvenile delinquency is an absolute right giving them **'fresh start'** and, therefore, to give it full meaning, the respondent-Regional Passport Officer is mandated to process the application of petitioner for issuance of passport afresh notwithstanding his conviction so recorded by the Juvenile Justice Board, Gorakhpur and issue him the requisite passport if there is no other legal impediment/hurdle.

52. The impugned order suffers from arbitrariness and non-application of mind, hence, a writ in the nature of certiorari is issued

thereby quashing the impugned order dated 19.03.2021 contained as Annexure No.1 to this writ petition.

53. The writ petition is allowed in above said terms. Cost made easy.

(Indrajeet Shukla, J.) (Ajit Kumar, J.)

May 07, 2026
S.P.