

28.03.2023
sayandeep
Sl. No. 05
Ct. No. 05

WPA 5778 of 2023

Sri Sandeep Kabra & Ors.
-Versus-
Bureau of Immigrations & Ors.

Mr. Sabyasachi Chowdhury
Mr. Rajarshi Dutta
Mr. Avishek Guha
Ms. Akansha Chopra
Mr. Shaunak Mukhopadhyay
.....for the petitioners

Mr. Narendra Prosad Gupta
.....for the respondent Nos. 1 and 3

Mr. Shiv Mandal Singh
Mr. Moriram Sanfui
Ms. Jahanara Kulsum
.....for the respondent No. 2

The petitioners are aggrieved by a lookout Circular issued sometime in September, 2022 which prevented the petitioners from travelling outside India. All the three petitioners are suspended Directors of one Ceebuild Company Pvt. Ltd. and were guarantors of their Company. The petitioners were served with a Notice dated 9th February, 2023 from the respondent-Bank classifying the accounts of the petitioners as willful defaulters and informing the petitioners that the Lookout Circular has been issued by the Bureau of Immigration on the request of the Bank. The petitioners now intend to travel in May, 2023 for wedding ceremony in the family. The petitioner No. 2 is the brother of the

first petitioner and the petitioner No. 3 is a son of the first petitioner.

The Bureau of Immigration is represented.

Learned counsel submits that the Lookout Circular was issued taking into account the economic interest of the country.

Learned counsel appearing for the respondent Bank places a Notification of 22nd November, 2018 issued by the Ministry of Finance, Government of India, empowering the heads of Public Sector Banks to issue requests for opening Lookout Circulars. Counsel places several Clauses in the said Notification which empowers the Public Sector Banks in exceptional cases to prevent departure of a person from the country which would be detrimental for the sovereignty or security of India or to the bilateral relations of the country or to the economic interest of India or to the larger public interest of the country at any given point of time.

This Court is also aware of decisions passed by co-ordinate Benches in *Vishambhar Saran vs. Bureau of Immigration & Ors.* in WPA 6670 of 2022 and WP 10241(W) of 2020 where the co-ordinate Benches allowed the petitioner to travel outside the country despite a substantial amount due to the Banks in those cases. The decision given in *Vishambhar Saran vs. Bureau of Immigration & Ors.* in WPA 6670 of 2022, even on a cursory reading, makes it evident that the

quantum due to the Bank is not a relevant factor for granting relief. The decision also dwelt upon the lack of an established nexus between the amount due from the petitioner and the threat to the public interest of the country. Significantly, none of these two decisions were challenged by the Bank or any of the other respondents before the Division Bench. The decision of a learned Single Judge of Delhi High Court referred to on behalf of the Bank namely, *Shri Subrato Trivedi vs. Union of India & anr.* has also been considered by the Court.

Considering these decisions, this Court is of the view, *prima facie*, that the quantum due to the Bank which is Rs. 49 crores as stated on behalf of the Bank, is not reason enough to prevent the petitioners from traveling outside the country particularly where the ground given is protecting the economic interest of the country or in the larger public interest of India. As has been done in several other matters, the petitioners shall file a declaration enclosing the air tickets and the proposed dates of travel in April/May, 2023 which naturally should also have the return tickets. The petitioners shall individually undertake that the petitioners will return to the country on the dates reflected in the air tickets annexed to the undertaking. The undertakings shall be filed within seven days from date.

List this matter on 5th April, 2023.

The respondents shall be at liberty to file their affidavits only after the undertakings are received by the Court on the returnable date.

(Moushumi Bhattacharya, J.)