

CASE NO.:
Appeal (crl.) 744 of 2007

PETITIONER:
K Krishna M.A. Raihany

RESPONDENT:
Union of India & Ors

DATE OF JUDGMENT: 16/05/2007

BENCH:
Dr. ARIJIT PASAYAT & LOKESHWAR SINGH PANTA

JUDGMENT:
J U D G M E N T

CRIMINAL APPEAL NO. 744 OF 2007
(Arising out of S.L.P. (Crl.) 5409 of 2006)

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by the Division Bench of the Bombay High Court dismissing the writ petition filed by the appellant.

3. Background facts as projected by the appellant are as follows:

4. Appellant was born on 28.8.1973 at Mumbai. His school leaving certificate shows that the appellant was admitted to Karnataka High School at Chembur, Mumbai and left the school on 29.8.1988. On 4.12.1993 the Reserve Bank of India (for short 'RBI') granted permission to the appellant under Section 29(1)(b) of the Foreign Exchange Regulation Act, 1973 (for short 'FERA') for acquisition of shares in business in India. He also entered into catering contract at a railway station in Maharashtra. On 15.7.2003 the appellant applied for citizenship under Section 6 of the Citizenship Act, 1955 (for short 'Act'). Initially the State Government wrote a letter to the Central Government regarding grant of citizenship by naturalisation under Section 6(1) of the Act. A letter was also written by the Under Secretary, Government of India, stipulating certain conditions for accepting the prayer of the appellant. Thereafter, the appellant got in touch with the Consulate General of Iran on several occasions. An order of deportation was passed against the appellant on 7.10.2005. A writ petition was filed before the Bombay High Court challenging the order. The same was dismissed on 17.2.2006. However, this Court allowed the Writ Petition (criminal) no.17 of 2006 with certain directions. Appellant's case is that though his presence was required by the police officials, notices were issued without specifying any reason. Notice was issued by Deputy Commissioner of Police, Mumbai requiring appellant's presence on 3.4.2006. A detailed reply was filed on 4.4.2006. Warning was issued on 7.4.2006 to remain present on 10.4.2006. Reply was submitted on that date. On 26.5.2006 notice was issued by the Inspector of Police to the appellant requiring his presence in the office. On 26.5.2006 notice dated

10.4.2006 was received by the appellant directing him to leave the country. Reply was submitted by the appellant on 10.6.2006. A Writ Petition was filed (W.P. 1262/06) with prayers for (a) grant of Indian citizenship by naturalization; (b) not to interfere with the appellant's right of residence in India; (c) not to deport the appellant without following the orders of this Court.

5. By letter dated 29.8.2006, the Under Secretary, Government of India, withdrew the letter dated 15.12.2003 giving reference to the State Government's letter dated 6.7.2006. On 13.10.2006 the High Court dismissed the writ petition by the impugned order. On 17.10.2006 notice was issued to the appellant to leave the country. The SLP was thereafter filed and the notice was issued on 6.12.2006 granting stay of deportation.

6. According to the appellant there is no order passed on his application for citizenship. No reason has been indicated in the communication dated 29.8.2006 as to what was the basis for holding that citizenship was not to be granted to him in public interest. Detailed counter-affidavits have been filed by the Union of India and the State of Maharashtra.

7. However, there is no need to refer to them in detail.

8. Learned Additional Solicitor General and the learned counsel appearing for the State of Maharashtra stated that the communication dated 29.8.2006 copy of which was given to the appellant is the order disposing of the appellant's prayer for grant of Indian citizenship by naturalization under Section 6(1) of the Act. Learned counsel for the appellant stated that even in the counter affidavits filed there was no specific stand taken that the communication in question was the order in terms of Section 6(1) of the Act. In any event, according to him no reasons have been indicated.

9. By way of reply the learned ASG pointed out that Section 14 of the Act makes the position clear that no reasons are required to be assigned for grant or refusal the application under Section 5 or 6 of the Act.

10. It is not necessary to go into the various points urged in view of the fact that it is accepted by the learned ASG for the Union of India and the learned counsel for the State of Maharashtra that the communication dated 29.8.2006 is the order disposing of appellant's application for grant of citizenship.

11. It is open to the appellant to avail such remedy as is available in law in view of the said order. We make it clear that we have not expressed any opinion on the merits of the case. The appeal is disposed of accordingly.