

VIII/402/App-55/2011
Ministry of External Affairs
CPV Division
Patiala House Annexe
New Delhi-110001

Appeal U/s 11 of the Passport Act, 1967

Shri Lalit Kumar Modi (hereinafter referred to as the Appellant), r/o Anand 41, Gandhi Gram Road, Mumbai-400049, applied for issue of passport in the year 2008 and was accordingly issued passport bearing No. Z-1784222 dated 30.7.2008 by the Regional Passport Office, Mumbai.

2. And it was reported to the Regional Passport Officer, Mumbai by Directorate of Enforcement, Mumbai, vide letter dated 04.10.2010 that there exists a complaint dated 16.9.2010 under FEMA against the appellant and for non compliance of summons issued by them on 2.8.2010. The Directorate of Enforcement, therefore, requested RPO, Mumbai to take suitable action for revocation of the passport of the appellant u/s 10(3)(c) of the Passport Act, 1967 in the public interest.

3. A show cause notice dated 13.10.2010 was issued by RPO, Mumbai with specific direction to the appellant to appear before Assistant Passport Officer (Policy) along with the passport to represent his case in person within 15 days from the date of issue of the letter. After considering requests from the lawyers of the appellant, personal hearings were held on 18.11.2010 and 26.11.2010 at RPO, Mumbai. During these hearings, the advocates representing the appellant were given considerable period of time to present their side of the matter.

4. After examination of all aspects of the matter and submission of the advocates of the appellant and requests made by the Directorate of Enforcement, Regional Passport Office issued the order for REVOCATION of passport No. Z-1784222 dt 30.7.2008 under Section 10(3)(c) of the Passport Act, 1967 in the interests of general public. The copy of this order No. F7(5) 10-D-4399/10-572-Pool-I dated 3.3.2011 was issued to the appellant at his known addresses and a copy of the same was sent to his advocates, with a provision to appeal before the Appellant Authority, i.e. Joint Secretary (PSP) and Chief Passport Officer, CPV Division, Ministry of External Affairs, Patiala House Annexe, Tilak Marg, New Delhi 110001 against the order passed, if the appellant so desired.

5. The Attorney representing Shri Lalit K. Modi filed an appeal to the Chief Passport Officer, vide his letter dtd 1.4.2011. Two oral hearing sessions were held on 14.07.2011 from 1500 hrs to 1730 hrs and on 01.08.2011 from 1400 hrs to 1800 hrs. The appellant was represented by his lawyers, led by Shri Mehmood M. Abdi. On conclusion of the hearing on 01.08.2011, it was mutually agreed that the appellant will give a written submission, covering the arguments made in the hearing as well as any

additional points that they may wish to make. A copy of written submission was received on 17.08.2011.

6. Having gone through the facts and circumstances of the case and the arguments put forward by the appellant through his lawyers, both in the oral hearings and in the written submission, I decide as under:-

- i) The Enforcement Directorate, being an arm of the Government and the designated agency to go into the question of violation of the provisions of the Foreign Exchange Management Act, 1999, is competent to make recommendations to the Passport Issuing Authority to revoke/impound the passport of an individual on the basis of investigations conducted by that agency. Entertaining such a request by the Regional Passport Office, Mumbai in respect of the Appellant is in accordance with the established procedure and the Regional Passport Office, Mumbai was not expected to undertake any independent enquires in this regard other than those already conducted by the Directorate Of Enforcement, which is the Government agency professionally equipped to conduct such investigations.
- ii) In the process leading to the issue of order dated 03.03.2011 by Regional Passport Office, Mumbai there was no violation of the principle of natural justice because the Appellant was informed of the proposed action and was given sufficient and even additional time to explain his side of the matter. In fact, the advocates representing the Appellant presented their side of the matter in a very exhaustive manner during the two sessions of personal hearing on 18.11.2010 and 26.11.2010 and subsequent written submissions, all of which were considered before issue of the order dated 03.03.2011.
- iii) It is well known that Shri Lalit Kumar Modi was acting as the Chairman & Commissioner of the Governing Council for the Indian Premier League of the Board of Control for Cricket in India and was primarily responsible for the conduct of the IPL. The authorities investigating the case have reason to believe that Shri Lalit Kumar Modi, in his capacity as IPL Chairman & Commissioner, has committed gross irregularities in the conduct of the IPL tournament and in the award of various contracts by the BCCI with various parties in India and abroad. Through his fraudulent acts, Shri Modi appears to have committed contravention of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) to the extent of hundreds of crores of rupees and also appears to have gained personal benefits by acquiring huge amounts of money which he is suspected to have parked outside Indian in contravention of the provisions of FEMA.
- iv) Cricket is considered the most popular sport in India to which a huge public sentiment is attached. The serious allegations raised by various quarters including the electronic and print media on the conduct of the IPL tournaments have brought sports in general and the game of cricket in



particular to disrepute. It is, therefore, in the public interest that present case is properly investigated for which interrogation of Shri Lalit Kumar Modi in person is considered necessary. As this is an issue in which the general public and the community at large has some interest and the rights or liabilities of the general public are affected, investigation of the present case to its logical conclusion is in the interest of the general public.

- v) That, in view of the position explained above, it is established beyond doubt that this is a matter which falls under section 10 (3) (c) of the Passports Act, 1967.
- vi) The threat to personal safety perceived by Shri Modi was adequately considered by the authorities concerned. It is noted that the claimed security threat persisted even when Shri Modi was in India and it did not prevent him from attending day to day functions which involved his presence in huge public gatherings and travel all over India. The police authorities have all along offered protection to Shri Modi as and when required by him, and have assured that the protection would continue once he is back from his trip abroad. In these circumstances, his refusal to make himself available in India for personal interrogation by the investigating authorities on the alleged lack of adequate protection in India can only be construed as an action intended to avoid the process of law and non compliance of a legal process. It is pertinent to mention that there are hundreds of prominent individuals /dignitaries who are provided security protection by the law enforcement agencies of the Government of India and the State Governments, and we have hardly come across a case in which affected individuals go abroad on account of this, where the cost of arranging such security is prohibitively high.
- vii) That the alternative procedure for his examination through video conferencing, questionnaire, interrogatories etc, was considered by the concerned authorities, but it was found that no meaningful investigation was possible except by his examination in person since the Appellant was required to be confronted with a number of documents and his evidence is required to be recorded on many issues. It was also noted that the modality for interrogation in such cases has to be decided primarily by the investigating agency and individual conveniences need not take precedence while arriving at a decision. In the circumstances, insistence of the physical presence of the Appellant in India by the Enforcement Directorate is considered justified.
- viii) That 'revoking' the passport of the Appellant by the RPO, Mumbai was in order. As per procedure, impounding is resorted to when the passport is in the temporary custody of the Passport Authority or is surrendered to them. Revocation is resorted to when the passport is not in the custody of the Passport Authority and it is unlikely that the passport would be presented to

a PIA for temporary custody. In the instant case, the passport is still in the custody of the Appellant; it was not surrendered to the PIA and hence revocation was resorted to by the Regional Passport Office, Mumbai.

ix) The appeal is not allowed.



(Muktesh K. Pardeshi)
Joint Secretary (PSP)
& Chief Passport Officer
October 31, 2011

Copies to:

1. Shri Lalit Kumar Modi,
Anand, 41, Gandhi Gram Road,
Juhu, Mumbai.
2. Mr. Lalit Kumar Modi,
3rd Floor, Nirlon House,
Dr. Annie Besant Road, Worli,
Mumbai.
3. Shri Mehmood M. Abdi,
Constituted Attorney of
Shri Lalit Modi,
A-901, Meera Towers,
Near Mega Mall, Oshiwara,
Andheri (West), Mumbai-400053.
4. Regional Passport Office,
Manish Commercial Centre,
216 – A, Dr. A.B. Road,
Worli, Mumbai – 400030.