



2026:DHC:2548-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 24.03.2026

% LPA 154/2026

SHRAVAN GUPTA

.....Appellant

Through:

Mr. Vikas Pahwa, Sr. Adv. and Mr. Tanveer Ahmed Mir, Sr. Adv. with Mr. Manoj Sharma, Mr. Yudhishter Singh, Mr. Prabhav Ralli, Mr. Saud Khan, Mr. Dev Vrat Arya, Ms. Shreya Chauhan, Mr. Samraat Saxena, Ms. Deeya Mittal, Mr. Pulkit Shree, Advs.

versus

UNION OF INDIA & ORS.

.....Respondent

Through:

Ms. Anubha Bhardwaj, CGSC with Ms. Ananaya Shamsbery and Ms. Anchal Kashyap, Advs. for R-1 to R-4.
Mr. D.P. Singh, ASG and Special Counsel, ED with Mr. Manu Mishra and Ms. Garima Saxena, Advs for R-5.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

DEVENDRA KUMAR UPADHYAYA, C.J. (ORAL)

CM APPL. 18446/2026 & CM APPL. 18447/2026

1. Exemption allowed, subject to all just exceptions.



2. The application stands disposed of.

LPA 154/2026 & CM APPL. 18445/2026

3. Heard Mr. Vikas Pahwa, Sr. Adv. and Mr. Tanveer Ahmed Mir, Sr. Adv. assisted by Mr. Manoj Sharma, Adv., Ms. Ms. Anubha Bhardwaj, CGSC for respondent Nos. 1 to 4 and Ms. Garima Saxena, Adv. for respondent No.5.

4. With the consent of the learned counsel for the parties, the appeal has been taken up and is being decided at the admission stage itself.

5. This intra-Court appeal filed under Clause 10 of Letters Patent seeks to challenge the judgment and order dated 13.02.2026 passed by the learned Single Judge whereby W.P.(C) No. 9509/2021, instituted by the appellant – petitioner against the order dated 03.08.2021, passed by the respondent No.3 impounding the passport of the appellant – petitioner under Section 10(3)(b) of the Passports Act, 1967 (hereinafter referred to as the ‘**Passports Act**’), has been disposed of relegating the appellant to the remedy of appeal under Section 11 the Passports Act.

6. The appellant had also challenged, in the writ petition instituted by him before the learned Single Judge, the validity of the show cause notices dated 16.03.2021 and 20.07.2021 which culminated into the final order dated 03.08.2021 impounding his passport.

7. As observed above, learned Single Judge, by the impugned judgment and order has disposed of the writ petition, relegating the appellant to avail the remedy of a statutory appeal under Section 11 of the Passports Act.

8. It has been submitted on behalf of the appellant that in the facts and circumstances of the case, relegating the appellant to avail the remedy of appeal under Section 11 of the Passports Act was unwarranted and, in fact



and in law, such relegation after a period of 05 years from the date when the writ petition was entertained, was also not warranted.

9. Further submission on behalf of the appellant is that as a matter of fact, it was a case where the facts demonstrate clearly that the order dated 03.08.2021 has been passed in violation of principles of natural justice and also in derogation of directions issued by this Court in an earlier writ petition filed by the appellant and, accordingly, in view of the law laid down by the Supreme Court in *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others*, (1998) 8 SCC 1, refusal to exercise the discretion under Article 226 of the Constitution by the learned Single Judge by relegating the appellant to seek the appellate remedy is unwarranted and, therefore, the order passed by the learned Single Judge is liable to be set aside.

10. Opposing the appeal, learned counsel representing the respondent Nos. 1 to 4 as also the learned counsel appearing for respondent No.5 have stated that Section 11 of the Passports Act provides adequate and efficacious remedy of statutory appeal against an order impounding the passport under Section 10(3)(b) of the Passports Act and, therefore, the impugned judgment and order passed by the learned Single Judge does not suffer from any irregularity or illegality so as to call for any interference by this Court in this appeal. The prayer, thus, made on behalf of the respondents is that the appeal be dismissed at the threshold.

11. We have heard the respective submissions made by learned counsel for the parties and have also perused the record available before us on this Letters Patent Appeal.

12. Before advertng to the respective submissions made on behalf of the



parties, we may note certain facts which are relevant for the purposes of adjudication of the issue involved in this appeal.

13. The appellant was issued a passport on 20.01.2015. On the basis of certain information received from the Enforcement Directorate (ED), a show cause notice was issued to the appellant on 16.03.2021. The said show cause notice is on record. It was stated in the said show cause notice that the passport was issued to the appellant on 20.01.2015 on the basis of an application made in that behalf by the appellant, however, a complaint had been received against the appellant from the ED alleging therein the appellant's non-cooperation to join the investigation in the case of Agusta Westland Helicopter Scam being conducted by CBI. The complaint further mentioned alleged non-cooperation of the appellant in regard to joining the Rouse Avenue District Courts, New Delhi as summons were issued to the appellant by the Court.

14. The said show cause notice dated 16.03.2021, therefore, directed the appellant to show cause in writing as to why his passport may not be impounded or revoked under Section 10(3)(b)(c)&(h) of the Passports Act. The notice also provided that, in case, the appellant wanted to represent his case in person, he may visit Senior Superintendent (Policy) immediately on the receipt of the notice on any working day between 03:00 P.M to 04:00 P.M.

15. The appellant appears to have submitted his reply to the show cause notice dated 16.03.2021 vide his letter dated 31.03.2021. In his reply, the appellant had stated, *inter alia*, that the show cause notice was non-specific in the sense that it did not explain as to how the ingredients of Section 10(3)(b)(c) and (h) are met. It was further stated in the said reply by the



appellant that though the show cause notice dated 16.03.2021 referred to a complaint having been received from the ED, however, the complaint was not attached with the show cause notice. Reference was also made of the judgment of the Hon'ble Supreme Court in *Maneka Gandhi vs. Union of India & Anr*, (1978) 1 SCC 248. In the reply, it was also submitted by the appellant that no summons had been issued by the Court of competent jurisdiction to the appellant.

16. Since nothing was heard after the reply to the show cause notice dated 16.03.2021 was filed by the appellant, he instituted W.P.(C.) No. 4689/2021 before this Court which was permitted to be withdrawn on the statement made before the Court by the learned counsel for the appellant that since he, at the relevant point of time was located in London, UK, he may be permitted to join the proceedings before the Regional Office through video conferencing.

17. The said statement stands recorded in the order passed by this Court on 15.04.2021. The said order also records a statement made by the learned ASG that no decision had been taken in the matter which emanated from the show cause notice dated 16.03.2021. The Court also proceeded to record the statement made on behalf of the respondent that there would be no difficulty in permitting the appellant to appear through video conferencing in the proceedings. The Court, accordingly, directed that proceedings pursuant to the show cause notice dated 16.03.2021 shall continue before the Regional Passport Officer. The appellant was also permitted to file a detailed reply to the show cause notice dated 16.03.2021. The Court further provided that if any hearing was to be held, the appellant would be permitted to join through video conferencing. The order dated 15.04.2021 passed by this Court in



W.P.(C.) No. 4689/2021 instituted by the appellant is extracted herein below:

1. *This hearing has been done through video conferencing.*
2. *The Petitioner has preferred the present petition challenging the impugned show cause notice dated 16th March, 2021, issued by the Regional Passport Office, Delhi (hereinafter, 'RPO') of Respondent No. 1.*
3. *After some hearing, Mr. Tanveer Ahmed, Id. Counsel appearing for the Petitioner seeks permission to withdraw the present petition. He, however, prays that since the Petitioner is currently located in London, UK, he may be permitted to join through video conferencing in the proceedings pursuant to the show cause notice dated 16th March, 2021.*
4. *Mr. Chetan Sharma, Id. ASG submits that that no decision has been taken in the matter as yet, as the officer concerned has been detected to be COVID-19 positive. However, it submitted that there would be no difficulty in permitting the Petitioner to appear through video conferencing in the said proceedings. Accordingly, it is directed that the proceedings pursuant to the show cause notice dated 16th March, 2021 shall continue before the RPO. It is confirmed by the Ld. Counsel for the Respondents.*
5. *Accordingly, the Petitioner is permitted to file a detailed reply to the show cause notice dated 16th March, 2021. If any hearing is to be held, the Petitioner is permitted to join through video conferencing. The Petitioner's remedies, if any, against any decision that may be taken by RPO pursuant to the show cause notice, are left open to be availed of in accordance with law.*
6. *The petition, along with all pending applications, are disposed of in these terms "*

18. After the said order dated 15.04.2021, another show cause notice dated 20.07.2021 was issued to the appellant, a perusal of which reveals that the said show cause notice was issued in continuance of the earlier show cause notice dated 16.03.2021.



2026:DHC:2548-DB



19. The basis of the second show cause notice is the same on which the earlier show cause notice was issued. By the said show cause notice, the appellant was directed to show cause as to why his passport may not be impounded/revoked under Section 10(3)(b)(c) and (h) of the Passports Act within 07 days from the receipt of the said show cause notice. The said notice also provided that in case the appellant wanted to represent his case in person, he may visit Senior Superintendent (Policy) immediately of the receipt of this letter on any working day between 10:00 A.M to 01:00 P.M.

20. The said show cause notice dated 20.07.2021 was received by the appellant on 28.07.2021 as is apparent from a perusal of the Track Consignment Report issued by the Indian Postal Department. The said documents are available at page 291-292 of this appeal which clearly reveal that the letter containing the show cause notice dated 20.07.2021 was received by the appellant on 28.07.2021.

21. Accordingly, in terms of the requirement of the show cause notice dated 20.07.2021, the appellant was to furnish his reply by 04.08.2021 i.e. within 07 days from the receipt of the show cause notice. Since the time stipulated in the show cause notice dated 20.07.2021 for furnishing the reply was 07 days as such the time available to the appellant to reply to the said show cause notice was till 04.08.2021, however, before the time to respond to the said show cause notice could expire, the final order impounding the passport of the appellant was passed on 03.08.2021.

22. The appellant, before the order dated 03.08.2021 was passed, had instituted W.P.(C.) No. 7997/2021. The said writ petition was filed by the appellant challenging the show cause notice dated 20.07.2021, however, on 10.08.2021, the writ petition was dismissed with the liberty to the appellant



to assail the final order dated 03.08.2021.

23. The learned Single Judge, while disposing of the said writ petition vide order dated 10.08.2021 had also noticed the submission made on behalf of the appellant that he had not been served with the copy of the order dated 03.08.2021 by that time. In response to the said grievance raised on behalf of the appellant before the learned Single Judge, the learned counsel for the respondent undertook to provide another copy of the said order dated 03.08.2021 to the appellant though with the contention that a copy of the said order was already sent to the appellant.

24. It is this order dated 03.08.2021 which became the subject matter of challenge in the underlying writ petition, namely W.P.(C.) No. 9509/2021 wherein, apart from challenging the final order dated 03.08.2021, the appellant also challenged the show cause notices dated 16.03.2021 and 20.07.2021. The said writ petition has been disposed of, as observed above, by the impugned order passed by the learned Single Judge relegating the appellant to avail the statutory remedy against the order dated 03.08.2021, under Section 11 of the Passports Act.

25. We may, at this juncture, also notice that while entertaining W.P.(C.) No. 9509/2021, this Court vide an order dated 03.09.2021 had provided that the respondent shall stand restrained from taking any coercive action against the appellant in pursuance of the order dated 03.08.2021.

26. The proceedings of the writ petition thereafter proceeded further and a counter affidavit on behalf of the Passport authorities was filed in the said writ petition. Impleadment was also sought by the ED which was allowed, however, no counter affidavit was filed by the ED.

27. By the impugned judgment, the learned Single Judge has declined to



entertain the Writ Petition on the ground of availability of an alternative remedy under Section 11 of the Passports Act. It is this order dated 13.02.2026 passed by the learned Single Judge that has been assailed before us in this intra-Court appeal.

28. The sole question for consideration in this appeal is as to whether the impugned judgment where the learned Single Judge has refused to exercise his discretion to entertain the Petition under Article 226 of the Constitution of India on the ground of availability of statutory remedy in the instant case is sustainable.

29. It is settled law that ordinarily in the wake of availability of an efficacious statutory remedy against the action impugned before the High Court in proceedings under Section 226 of the Constitution of India, the party approaching the Court should be asked to avail the statutory remedy, however, under certain circumstances, refusal to entertain a writ petition may become fatal. As to under what circumstances, despite availability of the statutory remedy, the writ petition ought to be entertained has elaborately been dealt with by the Hon'ble Supreme Court in the judgment in the case of *Whirlpool Corporation* (supra). The Hon'ble Supreme Court has carved out certain exceptions where the discretion under Article 226 to entertain a writ petition may not be refused even in the wake of availability of an alternative remedy and such exceptions are (1) if the action complained against suffers from the vice of non-observance of principles of natural justice, (2) where the order or proceedings are wholly without jurisdiction and (3) where *vires* of an Act is under challenge.

30. Paragraph 15 of the judgment in *Whirlpool Corporation* (supra) is apposite to be extracted here which reads as under:-



“15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”

31. Reference, in this regard, may be had to a judgment of a Co-ordinate Bench of this Court in W.P.(C.) No. 5235/2021 titled ***Renew Power Private Limited v. National E Assessment Centre Delhi*** where the final order was passed before expiry of the period of submitting the response to the show cause and the Court, relying on ***Whirlpool Corporation*** (supra), has held that in such a situation, the discretion under Article 226 of the Constitution of India for entertaining the writ petition may not be refused solely on the ground of availability of alternative statutory remedy.

32. Having noticed the law as regards the circumstances where this Court, while entertaining a writ petition under Article 226 of the Constitution of India, may not relegate a party approaching the Court to a statutory remedy, we now proceed to examine as to whether the facts of the instant case warranted refusal of exercising the discretion by learned Single Judge for entertaining the writ petition, or not.



2026:DHC:2548-DB



33. The case set up by the appellant has already been discussed above. The first show cause notice to the appellant was issued on 16.03.2021 pursuant to which the reply is said to have been submitted by the appellant on 31.03.2021. Since no decision in the matter was taken, W.P.(C.) No. 4689/2021 was preferred by the appellant which was disposed of with the observation that the appellant may file detailed reply and further that the appellant shall be permitted to participate in the proceedings, drawn pursuant to the show cause notice dated 16.03.2021, through video conferencing.

34. Thereafter, the second show cause notice was issued to the appellant on 20.07.2021 which was received as per the Track Consignment Report of the Indian Postal Department, by the appellant on 28.07.2021. The time period as given in the show cause notice dated 20.07.2021 for furnishing the reply expired on 04.08.2021; however, the final order was passed even before expiry of the said period, i.e. on 03.08.2021. These facts are undisputed.

35. Further, what we notice, as pointed out by learned counsel for the appellant, is that the final order dated 03.08.2021 does not discuss even the reply said to have been submitted by the appellant on 31.03.2021.

36. For the aforesaid facts of the situation, *prima facie*, the appellant has been able to make out a case where the impugned order appears to have been passed in violation of the principles of natural justice and, accordingly, having regard to the law laid down by the Hon'ble Supreme Court in ***Whirlpool Corporation*** (supra), in our opinion, it was a case where discretion of the learned Single Judge to entertain the writ petition under Article 226 of the Constitution of India ought not have been declined solely



for the reason of availability of a statutory remedy available under Section 11 of the Passports Act.

37. Having regard to the nature of proceedings which are drawn by the authorities by invoking Section 10(3) of the Passports Act and the situation to which a passport holder is likely to land himself once the passport is revoked, principles of natural justice assume special significance keeping in view the law laid down by the Hon'ble Supreme Court in *Maneka Gandhi* (supra).

38. For the reasons aforesaid, we are of the opinion that the learned Single Judge has erred while refusing to entertain the writ petition on the ground of availability of remedy of statutory appeal under Section 11 of the Passports Act, specially keeping in view the fact that the petition was entertained way back in the year 2021 itself.

39. The appeal, thus, deserves to be allowed. Resultantly, the appeal is allowed and the impugned judgment and order dated 13.02.2026 passed by the learned Single Judge in W.P.(C) No. 9509/2021 is hereby set aside and the matter is remanded to the learned Single Judge for consideration of the Writ Petition afresh. The Writ Petition is restored to its original number.

40. We have been informed that the counter affidavit in the proceedings of the writ petition has not been filed by the ED. Accordingly, we permit that the counter affidavit, if any, shall be filed by the ED within a period of two weeks, rejoinder affidavit to which shall be filed by the appellant within a week thereafter.

41. We request the learned Single Judge to expedite the proceedings of the writ petition and decide the same as early as possible, say within a period of two months from the date of completion of pleadings.



2026:DHC:2548-DB



42. We make it clear that the observations made in this judgment are only for the purposes of deciding the instant appeal and the same may not be construed as our reflection so far as the merit of the challenge in the writ petition is concerned. It will be open to the parties to take all the pleas which may be available to them under law before the learned Single Judge.

43. Since all the parties in the writ petition are represented before us in this appeal, let the writ petition before the learned Single Judge be listed on 06.04.2026. The appellant will be at liberty to make a fresh application seeking interim order, if any, before the learned Single Judge and in case such an application is preferred by the appellant, the same shall also be dealt with expeditiously.

44. There shall be no order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA , J

MARCH 24, 2026

N.Khanna