

A.F.R.

Court No. - 40

Case :- WRIT - C No. - 28103 of 2021

Petitioner :- Giri Kristian Csiszar

Respondent :- Union Of India Through Its Ministry Of Home Affairs And 4 Others

Counsel for Petitioner :- Vineet Kumar Singh, Rahul Kumar Sharma

Counsel for Respondent :- A.S.G.I., Arvind Nath Agrawal, C.S.C.

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vikas Budhwar, J.

(Oral Judgment by Hon'ble Vikas Budhwar, J.)

1. Learned Standing Counsel has filed counter affidavit on behalf of respondents 3 to 5 which is taken on record.
2. This is a petition at the instance of a Finnish national seeking citizenship of India by naturalisation as per the provisions en-grafted under Section 6(1) of the Citizenship Act, 1955 (hereinafter referred to as the Act of 1955).
3. As per the pleadings worded in the petition, the petitioner claims himself to be a citizen of Republic of Finland, who was born on 29.12.1981. According to the petitioner in the year 1983, he visited India at the age of 2 years along with his parents and stayed in India for approximately two months. Subsequently, from 1985 to 1990, the petitioner went to Australia in order to pursue his studies and thereafter in the year 1990 again he came back to India and lived in the birth place of Lord Sri Krishna i.e. Vrindavan for approximately six months. In the meantime, from 1990 to 1996, the petitioner pursued his education upto High School level and thereafter from 1997 to 2000, he pursued his studies in Computer Mechanic from Finland. As per the pleading the petitioner had spiritual bent of mind and he got attracted towards the preaching and the aura of Lord Krishna so he came to India and in the month of August, 2001 and he joined one of the Ashram in Vrindavan in the State of Uttar Pradesh and become the disciple of Narayan Goswami Maharaj Ji.

4. Petitioner has come up with a case that he is living in India since 2001 and he has renounced the materialistic possession of the wordily life and had inculcated the India cultural and spiritual preaching and he in his inner heart is attracted towards to the life so led by Lord Krishna and he has made up his mind to live his rest of the life in Vrindavan Mathura i.e. in India.

5. In the aforesaid backdrop, the petitioner preferred an application under Section 6(1) of the 1995 Act read with Rule 10(1) (a) being Form (VIII) of the Citizenship Rules, 2009 (hereinafter referred to as 2009, Rules) after completing the requisite formalities as provided therein before the competent authority seeking grant of citizenship by naturalisation on 8.4.2015.

6. As per the provisions contained under the 1955 Act and the Rules, 2009 framed therein under a notice was published in widely circulated newspapers seeking response/objection from an objector as to why the application so preferred by the petitioner for grant of citizenship by naturalisation be not acceded with. A report was also called upon by Additional District Magistrate (Administration) Mathura from Superintendent of Police, Mathura to which a report was submitted by the latter before the former on 6.5.2013 recommending the case of the petitioner for grant of citizenship by a naturalisation.

7. On 6.7.2016 the respondent no.3 recommended the case of the petitioner for grant of citizenship by naturalisation by virtue of letter no.737/Chh.Vi-3-2016-30M/15 dated 06/07/2016 before the respondent no.1. Eventually, respondent no.1 on 15.12.2016 sent a letter to the respondent no.3 providing as under:-

“To

*The Secretary
Government of Uttar Pradesh
Home (Visa-2) Department
Lucknow-226001*

Subject:-Grant of Indian Citizenship by Naturalization under section 6(1) of the Citizenship Act, 1955-Case of Giri Kristian Csiszar S/O Istvan Csiszar, a/an Finland national.

Sir,

I am directed to refer to the State Government's letter No.737/Chh.Vi-3-2016-30M/15 dated 06/07/2016 on the subject cited above.

2. The Government of India have decided to register the above mentioned applicant as a citizen of India under Section 6(1) of the Citizenship Act, 1955, keeping in view the verification of eligibility and suitability and recommendation made by the State Government vide their letter referred to above. The applicant would be formally registered as a citizen of fulfillment of the following requirements:-

i. The applicant may be asked to renounce his present nationality by making an application to the concerned Mission of his country in India in accordance with the law of that country.

ii. Deposit the fee prescribed for such registration viz. Rs.13750- Per application creditable to the Ministry of Home-Affairs receipt head No '0070-Other Administrative Services-Other Services-receipt under Citizenship Act' in the State Bank of India through treasury Challan which will be adjustable by the Pay & Accounts Officer/Ministry of Home Affairs.

3. The documentary evidence regarding renunciation of present foreign nationality, payment of fee (both in original), three copies of recent passport size colored photographs (duly attested on the reverse by a Magistrate (Gazetted Officer), typed personal particulars indicated in Form-xii of Schedule-1 to the Citizenship Rules 2009 and three specimen signatures (or thumb impression) on a plain paper, may be obtained from the applicant and forwarded to this Ministry for further action.

Yours faithfully

(S.C. Solanki)

Under Secretary to the Govt. of India.”

8. It has come on record that the petitioner deposited the prescribed fee for registration i.e. Rs.13750/-. The petitioner had also approached the Embassy of Finland at New Delhi for the purposes of renouncing his Finnish nationality. However, on 29.12.2016 the Second Secretary, Administration and Consular Affairs issued a certificate which reads as under:-

“FINNISH CITIZENSHIP: RELEASE

TO WHOM IT MAY CONCERN

This is to certify that Mr. Giri Kristian CsiSZAR (born 29th of December 1981 in Kangasala, Finland) has informed the Finnish

Embassy in New Delhi that he is applying to become citizen of India.

As India does not approve dual citizenship Mr. Csiszar has decided to release from Finnish citizenship.

He has presented the necessary documents (application release the Finnish citizenship) at the Embassy of Finland in New Delhi on Thursday 29th of December, 1981.

The documents will be sent to the competent authority in Finland. The Finnish Immigration Service (www.migri.fi). As Mr. Csiszar has not yet received the Indian citizenship Mr. Csiszar will be first released from Finnish citizenship upon condition. The release will take effect once he will provide proof within a specified time of having become the citizen of another state.

Should you have any further questions do not hesitate to contact us.

Yours sincerely,

Tina-Rinne-Aguilar

Second Secretary

Administration and Consular Affairs”

9. On 14.6.2018 on the application so preferred by the petitioner for renouncing nationality of Finland, Inspector General, Finnish Immigration Center accorded following decision:-

“Finnish Immigration Service has decided to release the applicant from Finnish citizenship as of the date when he receives Indian citizenship. This decision will enter into force only if the applicant, within two years from the entry into force of this decision, presents Finnish Immigration Service with proof of receipt of Indian citizenship, Finnish Immigration Service will Issue a certificate of compliance with the condition.”

10. In the meantime, in pursuance of the Rule 15(1) and 16(1) of the

Citizenship Rules, 2009, the Government of India, Ministry of Home-affairs issued certificate of nationalisation.

11. It has further come on record that on 6.11.2019, the respondent no.1 issued a letter to the respondent no.3 returning the papers so transmitted by respondent 3 to respondent no.1 off line while asking the respondent no.3 to again remit papers by on line mode. However, on 29.1.2021 a decision has been taken by the respondent no.1 marking it to respondent no.3 providing as under:-

“The Secretary (Home)

Government of Uttar Pradesh

Subject:-Grant of Indian Citizenship by registration/naturalisation under Section 6(1) of the Citizenship Act, 1955 case of Sh. Giri Kristian Csiszar a Finland national.

Madam/Sir,

In reference to the MHA File No.2015080133 Dated 08/04/2015 and this Ministry's Acceptance letter dated 15/12/2016 on the above subject, on the scrutiny it has been found that the following documents have not been made available:-

(i) The applicant has submitted a letter from the Finnish Immigration Service dated 14/06/2018 along with its English version instead of renunciation certificate. As per English version of the letter, Finnish Immigration Service has decided to release the applicant from Finnish citizenship as of the date when he receives Indian Citizenship. This decision will enter into force only if the applicant, within two years from the entry into force of this decision, presents Finnish Immigration Service with proof of receipt of Indian citizenship. Finnish Immigration service will issue a certificate of compliance with the condition.

(ii) As per English version of the Finnish Immigration Services letter referred above, the applicant will remain citizen of Finland till the Indian citizenship is granted whereas the applicant was asked to renounce his present nationality vide this Ministry's Acceptance letter No.26018/133/2015-IC.II dated 15.12.2016. He has also given his country in the event of his application being sanctioned. Moreover, the Constitution of India does not allow dual citizenship. Hence renunciation certificate is mandatory to furnish. If the applicant fails to submit renunciation certificate, whereby his foreign nationality has clearly been ceased within six months from the date of issue of this letter, his citizenship application will be liable to be rejected.

The State Government is requested to get the above

information/documents uploaded online.

This Ministry's file number given above may be cited invariably in all future correspondence.

Yours faithfully

Ashutosh Anand

Under Secretary/Assistant Secretary”

12. On 10.3.2021 the respondent no.1 has again sent letter to the respondent no.3 further providing is as under:-

“To,

The Secretary

Government of Uttar Pradesh

Home (Visa-2) Department

Lucknow-226001

Subject:- Grant of Indian Citizenship by Naturalization under section 6(1) of the Citizenship Act, 1955-case of MAKSYMLARCHENKO s/o VLADIMIR LARCHENKO, an Ukraine national.

Sir,

I am directed to refer to the State Government's letter No.114/6-Visa-32020-10M/18 dated 09/07/2020 on the subject cited above.

2. The Government of India has decided to register the above mentioned applicants as a citizen of India under Section of the Citizenship Act, 1955 keeping in view of the verification of eligibility and suitability and recommendation made by the State Government vide letter referred to above. The applicant would be formally registered as a citizen of India subject to fulfillment of the following requirements:-

(i) The applicant may be asked to renounce his present nationality by making an application to the concerned Mission of his country in India in accordance with the law of the country.

(ii) If Renunciation Certificate has not been issued by the Embassy in case of expired passport the applicant may file an Affidavit before the authority prescribed under Rule 38 of the Citizenship Rules 2009 that may be considered in lieu of Renunciation Certificate. The applicant (s) have to deposit their expired Passport to Collector/district Magistrate/Deputy Commissioner Office with other documents in terms of the

Ministry's letter No.26030/266/2014-IC.II dated 17.11.2014.

(iii) Deposit the fee prescribed for such registration viz. Rs.100/- Per application creditable to the Ministry of Home-Affairs receipt head no.0070-Other Administrative Services-Other Services-receipt under Citizenship Act in the State Bank of India through treasury Challan which will be adjustable by the Pay & Accounts Officer, Ministry of Home-Affairs or deposit the fee through e-payment options available on the citizenship website "<http://indiancitizenshiponline.nic.in>."

3. The documentary evidences regarding renunciation of present foreign nationality may be obtained in original and uploaded against the online file of the applicant in online citizenship module. The applicant has to upload documents in support of payment of fee, and also upload photographs & signature and fill Form XII on MHA website <http://indiancitizenshiponline.nic.in> against his application file number. Originals of these documents have to be obtained from the applicant and filed in the office of the District Collector/Magistrate concerned for future reference."

13. A counter affidavit has been filed by respondent no. 1 and 2 sworn on 22.1.2022 wherein in paras 3 and 5 the following averments have been made:-

3. That his above application was received in the Ministry through the State Government of Uttar Pradesh. The Ministry examined his aforementioned application and issued in-principal Acceptance Letter dated 15.12.2016 and asked the applicant renouncing his present nationality, Fee Challan of Rs.13,750/-, From-XII of Schedule I to the Citizenship Rules, 2009, three copies of recent passport size colored photographs (duly attested on the reverse by a Magistrate/Gazetted Officer) and three specimen signatures (or thumb impression) on a plain paper.

5. That it is to state dual citizenship is not allowed in terms of Article 9 of the Constitution of India read with Section 9 of the Citizenship Act, 1955. In terms of Rule 10 of the Citizenship Rules, 2009 applicant gives an undertaking in writing that he shall renounce the citizenship of his country in the event of his application being sanctioned. The applicant has also declared vide para 21 of his citizenship application that he shall renounce the citizenship of his country in the event of his application being sanctioned. Therefore, the applicant has to submit renunciation certificate whereby his foreign nationality has clearly ceased.

14. On 29.11.2021 this Court while entertaining the present writ petition proceeded to pass the following orders:-

"The petitioner is a citizen of Finland and is residing at Mathura

since long. He has moved an application for grant of Indian citizenship in which he has made a solemn declaration of his intention to make India a permanent home and has also undertaken to renounce the citizenship of his previous country, in the event, such application is sanctioned. The application has remained pending for several years. The respondents, however, have called upon the petitioner to renounce his citizenship of earlier nationality and unless such renunciation certificate is furnished, his application shall be rejected.

Learned counsel for the petitioner points out the application Form, dated 9.4.2015, in which the declaration required by virtue of clause 8, only requires the intend to renounce the citizenship of previous country when Indian citizenship is sanctioned. It is submitted that the format contained under the Citizenship Act, 1955 itself takes care of renunciation of citizenship of the previous country, if the citizenship is offered in India and, therefore, the insistence on part of authorities to renounce the citizenship of earlier country as a precondition for consideration of his application for grant of citizenship, is wholly arbitrary. It is also urged that if the respondents' instructions were followed, the petitioner would cease to be a national of any country and that is not the intend of law.

Prima facie, we find substance in the contention advanced by the petitioner. In view of the clear recital of the petitioner's intend to renounce the citizenship of Finland, if his application for grant of Indian citizenship is accepted, there appears to be no further requirement of offering renunciation of citizenship at this stage.

Sri Arvind Nath Agarwal, counsel appearing for Union of India and the concerned authorities shall obtain instructions from the respondents, who shall be at liberty to revisit the matter in the light of the above observations and the provisions of law. Post as fresh once against on 20th December, 2021. “

15. Heard Sri Vineet Kumar Singh, learned counsel for the petitioner, Arvind Nath Agrawal, learned counsel for the respondents no. 1 and 2 and learned Standing Counsel for the respondents no. 3 to 5.

16. The core question, which needs to be adjudicated in the present proceedings, is with regard to the fact as to whether for the purposes of processing and grant of citizenship by naturalisation, the applicant (foreign national) in order to be a citizen of India has to renounce the citizenship of the country which he possessed at the time of filing of the application for grant of citizenship by naturalisation or not and whether an undertaking to renounce the citizenship of the foreign country in the event of his application for Indian

citizenship being submitted processed.

17. In order to delve into the said issue, the relevant statutory provisions are at least need to be noticed.

18. The Parliament in exercise of his powers so conferred therein enacted an Act by the name in the nomenclature of the Act of 1955 which received the assent of the President on 30.12.1955 in order to provide for classification and determination of Indian citizenship.

19. Section 3 of the Act of 1955 provides for citizenship by birth, Section 4 citizenship by descent, Section 5 citizenship by registration followed by citizenship by naturalisation Section 6-A special provisions as to citizenship of persons covered by the Assam Accord, 6-B special provisions as to citizenship of person covered by proviso to clause (b) of sub-section (1) of Section 2 and Section 7 citizenship by incorporation of territory etc.

20. So far as the present controversy is concerned, the same revolves around citizenship by naturalisation contained under Section 6 of the 1995 Act which reads as under:-

“6. Citizenship by naturalisation.—(1) Where an application is made in the prescribed manner by any person of full age and capacity 3 [not being an illegal migrant] for the grant of a certificate of naturalisation to him, the Central Government may, if satisfied that the applicant is qualified for naturalisation under the provisions of the Third Schedule, grant to him a certificate of naturalisation:

Provided that, if in the opinion of the Central Government, the applicant is a person who has rendered distinguished service to the cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions specified in the Third Schedule.

(2) The person to whom a certificate of naturalisation is granted under sub-section (1) shall, on taking the oath of allegiance in the form specified in the Second Schedule, be a citizen of India by naturalisation as from the date on which that certificate is granted.”

21. The Third Schedule under Section 6(1) of the 1995 Act provides for the qualifications for naturalisation which reads as under:-

THE THIRD SCHEDULE

[See section 6(1)]

QUALIFICATIONS FOR NATURALISATION

The qualifications for naturalisation of a person 1 are—

(a) that he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens of that country by naturalisation;

(b) that, if he is a citizen of any country, [he undertakes to recounce the citizenship of that country in the event of his application for Indian citizenship being accepted];

(c) that he has either resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of the application;

[Provided that if the Central Government is satisfied that special circumstances exist, it may, after recording the circumstances in writing, relax the period of twelve months up to a maximum of thirty days which may be in different breaks.]

(d) that during the 4 [fourteen years] immediately preceding the said period of twelve months, he has either resided in India or been in the service of a Government in India, or partly the one and partly the other, for periods amounting in the aggregate to not less than 5 [eleven years];

[Provided that for the person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community in Afghanistan, Bangladesh or Pakistan, the aggregate period of residence or service of Government in India as required under this clause shall be read as “not less than five years” in place of “not less than eleven years”.]

(e) that he is of good character;

(f) that he has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution; and

(g) that in the event of a certificate of naturalisation being granted to him, he intends to reside in India, or to enter into, or continue in, service under a Government in India or under an international organisation of which India is a member or under a society, company or body of persons established in India:

Provided that the Central Government may, if in the special circumstances of any particular case it thinks fit,—

(i) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of clause (c) above, as if it had immediately preceded that date;

(ii) allow periods of residence or service earlier than 7 [fifteen years]

before the date of the application to be reckoned in computing the aggregate mentioned in clause (d) above.

22. In exercise of the powers conferred by Section 18 of the 1995 Act, the Central Government framed Rules being the Citizenship Rules, 2009 which came into the effect from 25.2.2009. Relevant extract of **Rules 10, 15 and 16** of the Rules, 2009 is being quoted herein-under:-

“10. Application for grant of citizenship by naturalisation under sub- section (1) of section 6.- An application from a person for naturalisation as a citizen of India under sub-section (1) of section 6 shall not be entertained unless – (a) the application is made in Form VIII; (b) he gives an undertaking in writing that he shall renounce the citizenship of his country in the event of his application being sanctioned; and (c) the application is accompanied with - (i) a duly stamped affidavit verifying the correctness of the statements made in the application alongwith two affidavits from Indian citizens testifying the character of the applicant; and (ii) a certificate depicting that the applicant has adequate knowledge of one of the languages specified in the Eighth Schedule to the Constitution of India. Explanation 1.- The applicant shall be considered to have adequate knowledge of the concerned language if he can speak or read or write that language. Explanation 2.- The certificate may either be issued by a recognised educational institution or a recognised public organization or from two persons of the locality or district of the applicant who are citizens of India.

15. Grant of certificate of naturalization.- (1) Every person who by naturalisation is made a citizen of India under sub-section (1) of section 6 shall be issued a certificate of naturalisation in Form XII signed by an officer not below the rank of Under Secretary to the Government of India. (2) A copy of the certificate of naturalisation issued under this rule, shall be preserved for the purposes of record by the issuing authority.

16. Oath of allegiance for naturalization.- (1) The oath of allegiance, under sub-section (2) of section 6 by a person to whom the certificate of naturalisation is granted, shall be subscribed in Form XII and the oath of allegiance so subscribed shall be endorsed on the certificate of naturalisation to which it relates. (2) The oath of allegiance under sub-rule (1) shall be subscribed within a period of three months from the date of grant of certificate of naturalisation to which it relates, or within such extended period as the authority granting the certificate may permit, and in case the oath is not taken within the said period, the certificate shall be of no effect: Provided that no permission shall be given under

this sub-rule unless a statement to that effect is endorsed on the certificate and signed by the officer authorised under rule 15 to sign the certificate of naturalisation. (3) The oath of allegiance required under sub-rule (1) shall be registered by such person and in such place as the authority granting the certificate may direct. (4) When the oath of allegiance is registered in accordance with any direction given under sub-rule (3), the authority, which registers it shall cause a copy of the oath and the certificate of naturalisation to which it relates to be sent to the Secretary to the Government of India in the Ministry of Home Affairs.”

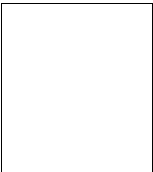
FORM VIII

[See rule 10 (1) (a)]

The Citizenship Rules, 2009

APPLICATION FOR NATURALIZATION AS A CITIZEN OF INDIA UNDER SECTION 6(1) OF THE CITIZENSHIP ACT, 1955

Note: Please write/print in BLOCK LETTERS



PART I 1. Full name of the applicant:.....
..... If commonly known by another name, enter such name here:
.....

2. Present address :.....
.....
.....

3. (a) Sex:.....
(b) Occupation:.....
(c) If in service, address of employer:.....
(d) Mark of identification:.....

3A. Do you belong to one of the minority communities from Afghanistan, Bangladesh and Pakistan, namely Hindus, Sikhs, Budhists, Jains, Parsis and Christians? Yes/No If, yes, Please specify

4. Place and date of birth:.....

5. Nationality by birth:.....

6. Present nationality, if different:.....

7. (a) Marital Status:..... (b) If married, give date and place of marriage and nationality of the spouse (c) Husband's or wife's name:.....

8. Father’s full name is..... resident of
..... and he was born at (with Tehsil, District, State and
Country).....on.....and is a citizen
of.....

9. Mother’s full name is..... resident
of.....and he was born at (with Tehsil, District,
State and Country).....onand is a citizen
of..... PHOTOGRAPH

10. Whether the applicant is a subject or citizen of any country where an Indian citizen is
prevented by law or practice of that country from becoming a subject or citizen of that
country by naturalization. :.....

11. Principal languages of India known and extent of knowledge thereof with evidence :
.....

12. Details of residence in India:

(a) Date of entry in India

(b) I have resided inIndia continuously for a period of twelve months immediately preceding
the date of application. Yes/No

(c) During the fourteen years immediately preceding the said period of twelve months, I
have resided in India for a period amounting in the aggregate to not less than eleven years

S.No.	Details with address of residence in India for the last fourteen years	From	To	Years	Months
1	2	3	4	5	

13. Reasons for which applicant wishes to acquire Indian citizenship:
.....

14. Passport particulars: (a) Country:..... (b) Number:.....
.....

15. Visa valid up to:.....

16. Details of family members who are staying in India with the applicant:

Sl. No.	Name	Present Address	Relationship	Age
1	2	3	4	5

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17. Details of criminal proceedings, if any:

S.No.	Nature of the criminal proceedings	Date and place of registering the case	Present status of the case	Judgement of the court
1	2	3	4	5

18. Names and addresses of at least two persons whose affidavits testifying to the character of the applicant and the correctness of the statements made in this application are attached herewith:

PART II

19. I have/have not previously renounced or been deprived of the citizenship of India. (If the applicant has renounced his Indian citizenship, here state the date on which the declaration of renunciation was made; or if he has been deprived of his citizenship, state the date on which and the authority by whom, the order of deprivation was made.)

20. I have/have not previously applied for naturalization as a citizen of India and the application has/has not been rejected.

21. I declare that my intention is to make India as permanent home and I undertake that I shall renounce the citizenship of my country in the event of my application being sanctioned.

22. I,.....do solemnly and sincerely declare that the foregoing particulars, stated in this application are true, and I make this solemn declaration conscientiously believing the same to be true.

Date: Signature:.....

Affidavit to accompany the application for a certificate of naturalization under the
Citizenship Act, 1955.*

In the matter of the application for a certificate of naturalization under the Citizenship Act, 1955, I.....son of residing atmake oath and do solemnly and sincerely affirm that the statements contained in my application here unto annexed are true to the best of my knowledge and belief. If, at any time before a certificate is issued to me, the accuracy of any of the foregoing particulars is affected by an alteration in circumstances, I undertake to inform the Secretary to the Government of India in the Ministry of Home Affairs in writing forthwith.

Station..... Signature.....
Date *

Affidavits to be attested by Notary/Oath Commissioner/Magistrate.
Affidavits testifying the character of the applicant and the correctness of the statements made in the application.

(vide item 18)

In the matter of an application for a certificate of naturalisation under the Citizenship Act, 1955, made by I..... aged.....years, by occupation.....son ofresiding atmake oath and do solemnly and sincerely affirm that I am an Indian citizen otherwise than by naturalization; that I am a householder; that I am not a solicitor or agent ofthat I have personal knowledge of, and intimate acquaintance with, the saidfor.....years; that the statements contained in his application for naturalization are true to the best of my knowledge and belief.

I support’s application for naturalization and I can vouch for his good character and loyalty.

Date Signature.....
Name

Full postal address

..... Copies of two issues (in triplicate) of a newspaper or newspapers circulating in the district in which the applicant resides each containing (clearly marked) an advertisement in the following form should accompany the application.

“Notice is hereby given that.....son/daughter/wife of.....is applying to the Secretary to the Government of India in the Ministry of Home Affairs for naturalization and that any person who knows any reason why naturalization should not be granted should send a written signed statement of the facts to the said Secretary.”

(This form complete in all respects shall be e submitted in triplicate to the Collector/Deputy Commissioner/District Magistrate within whose jurisdiction the applicant is ordinarily resident for transmission to the Central Government through the State Government or the Union territory administration, as the case may be)

DOCUMENTS TO BE ATTACHED WITH THE APPLICATION BY THE APPLICANT

- 1. A copy of valid Foreign Passport.
- 2. A copy of valid Residential Permit.

3. [***]

4. One affidavit from self (applicant) and two affidavits from two Indians testifying to the character of the applicant in the prescribed language available in the application form.

5. Two language Certificates certifying the applicant's knowledge in any one of the Indian languages specified in the Eighth Schedule of the Constitution. (A language certificate from a recognized educational institutions or from a recognized organization or from two Indian citizens of the district of the applicant).

6. Two newspaper (circulating in the district in which the applicant resides) cuttings of different dates or of different newspapers notifying his intention to apply for citizenship in the prescribed language in the application form.

23. The word naturalisation which finds its presence in the Citizenship Act, 1955 was interpreted in the case of **Rakesh Singh Vs. Sonia Gandhi 2011 (85) ALR 384** wherein this Court observed as under:-

11. Needless to mention that the naturalization is also a mode of acquiring citizenship like the "Green Card" in United States of America. The citizenship can finally be acquired either by having a "certificate of registration" or by a "certificate of naturalization", if the candidates fulfill the conditions of Section 5 or Section 6 of the Citizenship Act, 1955 as the case may. Naturalization is the mode for acquisition of the citizenship by somebody who was not a citizen of that country when he/she was born.

(a) As per the Oxford Dictionary the meaning of naturalization is "admit (a foreigner) to the citizenship of a country"; and

(b) as per the Law Lexicon (2nd Edition) the meaning of Naturalization is an act of adopting a foreigner, and clothing him with the privileges of a native citizen."

12. In general, basic requirement for naturalization is that the applicant hold a legal status as citizen of India provided he/she fulfills the required conditions including the stay for the minimum period of prescribed time and that the applicant promises to obey and uphold that country's laws, to which an oath or pledge of allegiance is sometimes added. Some countries also require that a naturalized national must renounce any other citizenship which he/she currently holds, forbidding dual citizenship, but whether this renunciation actually causes loss of the person's original citizenship will again depend on the laws of the countries involved.

13. The citizenship is traditionally based either on jus soli ("right of

the territory"); or on jus sanguinis("right of blood"), although it now usually mixes both. Whatever the case may be, the massive increase in population flux due to globalization and the sharp increase in the number of migrants create an important class of non-citizen sometimes called denizens.

14. *In India, Section 6 of the Citizenship Act, 1955 provides that where an application is made in the prescribed manner by any person of full age and capacity (not being an illegal migrant) for the grant of a certificate of naturalization to him, the Central Government may, if satisfied that the applicant is qualified for naturalization under the provisions of the Third Schedule, grant to him a certificate of naturalization. There is a separate form and procedure for applying the citizenship by naturalization as mentioned above.*

15. *In United State of America, the naturalization is also mentioned in the 14th Amendment. The Amendment states that " all persons born or naturalized in the United States and subject to the jurisdiction thereof shall be citizens of the United States and of the State in which they reside". To maintain the singular citizenship, the Naturalization Act, 1798 was passed in USA. Accordingly, in America, a foreigner can first of all have to acquire the "Green Card" (naturalization) and later full-fledged citizenship. Thus, the naturalization is one of the mode to acquire the citizenship. But in India, there is no such concept like "Green Card".*

24. Needless to point out that neither Article 9 of the Constitution of India nor the provisions contained under the Citizenship Act, 1955 or the Citizenship Rules, 2009 contemplate a situation whereby whereinunder any person may not be citizen of any of the nation either the citizen of a foreign country or a citizen of a country where he seeks to be a citizen. Bearing in mind said amendment has been sought to be made in the Third schedule appended to Section 6(1) of the Citizenship Act, 1955 pertaining to qualification for naturalisation whereby w.e.f. 3.12.2004 by virtue of Act no.6 of 2004, the pre-requisite condition to renounce the citizenship of a foreign country has been dispensed with and its place undertaking to renounce the citizenship has been engrafted.

25. Sri Vineet Kumar Singh, learned counsel for the petitioner has argued that the stands so taken by the respondents no. 1 and 2 on the basis of the letter dated 29.1.2021 issued by the respondent no.1 addressed to respondent no.3 that renunciation of foreign country is prerequisite for processing and grant of citizenship by naturalisation is contrary to the statutory enactment inasmuch as

as per the Third Schedule under Section 6(1) of 1995 Act relating to qualification for naturalisation, the Clause-(b) stood substituted w.e.f. 3.12.2004 as now in view of the aforesaid substitution the condition that if the applicant seeking citizenship by naturalisation he/she need not renounce the citizenship of the foreign country as in view of the amendment only an undertaking to renounce the citizenship of the foreign country is required in the event the application for Indian citizenship being accepted.

26. According to learned counsel for the petitioner once there is no requirement under law to have renounced the citizenship of a foreign country at the time of filing of an application for grant of citizenship by naturalisation then undertaking to renounce the citizenship of the foreign country, in the event of his application for Indian citizenship being accepted would suffice.

27. Learned counsel for the petitioner has further sought to argue that he has fulfilled all the formalities as required under law being in the shape of 1955 Act and 2009 Rules and thus the condition so imposed by virtue of the letter dated 29.1.2021 is not legal and sustainable and further backed by statutory enactment.

28. Learned counsel for the respondents no. 1 and 2 has argued on the strength of the averments contained in paragraph 3 and 5 of the counter affidavit so filed by him dated 22.2.2022 so as to contend that as per Article 9 of the Constitution of India read with Section 9 of the 1955 Act dual citizenship is not allowed. However, in view of Rule 10 of the 2009 Rules in case the petitioner gives an undertaken in writing that he shall renounce the citizenship of his country in the event his application being accepted, he would be granted citizenship of India in this regard.

29. Learned counsel for the petitioner in rejoinder has argued that petitioner has right from the very inception was maintaining the consistent stand that in case citizenship of India is being offered to him then he would renounce his citizenship of Finland and he had already completed formalities and submitted undertaking in this regard.

30. Learned counsel for the petitioner has drawn the attention of this Court towards the certificate issued by the Second Secretary Administration and

Consular Affairs of Finland dated 29.12.2016 and of Inspector General Finnish Immigration service dated 14.6.2018 so as to contend that the petitioner would be released from Finnish citizenship as of the date when he gets Indian citizenship and the said decision will enter into force only if the petitioner within two years from the entry into force of the said decision presents Finnish Immigration service with an approval of receipt of Indian citizenship.

31. Learned counsel for the respondents no. 1 and 2 on the basis of the averments contained in paragraph 3 and 5 of the counter affidavit as well as instructions so received by him has not disputed the statutory provisions with respect to the grant of citizenship by naturalisation as contained under Section 6 of 1955 Act read with Third schedule appended to it in particular clause (b) which underwent amendment on 3.12.2004 whereby condition of renouncing of citizenship of foreign country stands dispensed with and in its place, stood substituted by the condition precedent being that the petitioner has to furnish undertaking to renounce the citizenship of the foreign country, in the event that the application for Indian citizenship being accepted.

32. Learned counsel for the respondents no. 1 and 2 has further made a statement at bar that the present writ petition may be disposed of with a direction that the petitioner may approach the competent authority along with the certified copy of the order within a period of four weeks from today and complete necessary formalities so required therein then the competent authority will consider the claim of the petitioner for grant of citizenship of India within further period of three weeks in accordance with law.

33. Resultantly the present writ petition is being disposed of with following directions:-

(a) Petitioner shall approach the competent authority within four weeks from today along with certified copy of this order;

(b) Competent Authority shall apprise the petitioner with the formalities which are yet to be completed as per the provisions contained under the Citizenship Act, 1955 and the Rules of 2009 as amended from time to time; and

(c) After completion of the formalities the competent authority shall consider the matter and pass a reasoned and speaking order in the light of the observation so made herein before for the grant of citizenship of India by naturalisation.

Order Date :- 11.4.2022
piyush