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

+ **W.P.(C) 14627/2024 & CM APPL. 61427/2024**

TANVEER WASIM SAFDAR @ TAN FRANCEPetitioner

Through: **Mr. Pankaj Mehta, Mr. R. K. Mehta,
Ms. Shweta Soni and Ms. Akansha
Singh, Advocates.**

versus

UNION OF INDIA & ORS.Respondents

Through: **Ms. Nidhi Raman, CGSC with Mr.
Amit Acharya, GP, Mr. Zubin Singh
and Ms. Rashi Kapoor, Advocates for
R-1 to 3.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

21.10.2024

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1. The Petitioner holds dual citizenship of the United States of America and the United Kingdom of Great Britain and Northern Ireland. As such he also holds two passports, one from the USA and one from UK. On 12th September, 2024, the Petitioner made a request for grant of Indian Tourist Visa at the VFS Global Center, San Francisco. The said application is stated to be under consideration and till date no decision has been taken by Respondents in this regard, constraining the Petitioner to approach this Court under Article 226 of the Constitution of India, seeking appropriate directions for expeditious process and grant of the said Tourist Visa.
2. Counsel for Petitioner highlights several grounds for seeking an expediated response to the Petitioner's request including the timelines



mentioned by the Respondents in the Frequently Asked Questions¹ on Visa, available on the website of Consulate General of India, San Francisco, California (www.cgisf.gov.in).

3. Relying on the timelines indicated in the aforesaid FAQs, the Petitioner asserts that his request for grant of Tourist Visa has exceeded the set timelines and therefore, this Court should issue a mandamus to the Respondents to expediate the process and grant the Tourist Visa to the Petitioner in a time bound manner.

4. Ms. Nidhi Raman, CGSC representing Respondents, argues that the timelines specified in the FAQs cannot be read as a statute and in fact, the FAQ itself indicates that the processing time is contingent upon the condition that the Visa application is found to be complete and in order. Moreover, she asserts that Petitioner's Visa application dated 12th September, 2024, specifically states that his parents are of Pakistani origin and at some point of time, were Pakistani nationals. In view of this, the Respondents are obligated to conduct a thorough verification of all relevant details before considering the grant of a Tourist Visa to the Petitioner.

5. Having carefully considered the submissions, the Court is unable to find any merit in the Petitioner's claim for a mandamus, particularly in light of the legal position that there is no inherent or legally enforceable right for a foreign national to seek entry into India. The issuance of a Tourist Visa is a sovereign function of the State, deeply rooted in considerations of national security, foreign policy, and administrative discretion. The Respondents are, therefore, fully entitled to examine all relevant factors before reaching a decision on the Petitioner's Visa application, especially given the sensitive

¹ "FAQs"



aspect of the Petitioner's familial ties which may warrant thorough scrutiny. The timelines mentioned in the FAQs cannot be treated as rigid statutory obligations, and the FAQ itself clearly stipulates that the processing time is conditional upon the application being 'in order.' As such, there is no breach of the Petitioner's rights that would justify judicial intervention at this stage.

6. Moreover, the argument raised by the Petitioner's counsel, alleging a violation of Article 14 of the Constitution on account of the delayed processing of the Visa, is fundamentally misconceived. Article 14 guarantees equality before the law to individuals who are within the jurisdiction of India. In the case of foreign nationals, the right to enter and reside in India is not an absolute or unconditional right but is subject to the discretion of the sovereign State. Visa policies, and their application, inherently involve considerations that lie within the purview of the executive. In view of the above, the Court finds no legal ground to compel the Respondents to expedite the process or to impose a strict adherence to the timelines mentioned in the FAQs, which are merely indicative and subject to various contingencies.

7. In view of the above, the Court is not inclined to grant the mandamus sought by Petitioner.

8. With the above observations, the present writ petition is dismissed, along with pending application(s).

SANJEEV NARULA, J

OCTOBER 21, 2024

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