

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE TWELFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT PETITION NO: 38237 OF 2025

Between:

Mrs. Nidhi Agarwal, W/o Sri Rakesh Ranja Jha, Aged about 42 Years, Occ. Software Engineer, R/o 5598 LE FEVRE DR, SAN JOSE, California, United States of America (USA), 95118 Represented by her sister and GPA holder Ms. Pooja Agarwal, D/o Sri Praveen Kumar Agarwal, Aged about 38 Years, Occ. Private Employee, R/o Plot No.47, Shiv Kunj, HUDA Heights, Near MLA Colony, Road No.12, Banjara Hills, Hyderabad - 500034

...PETITIONER

AND

1. Union of India, Represented by its Under Secretary, Ministry of External Affairs, Patiala House Annex, Tilak Marg, New Delhi - 110 001.
2. The Regional Passport Officer, S.P. Road, Secunderabad. Hyderabad - 500003
3. The Assistant Passport Officer, 8-1-305/306, Anand Silicon Chip, Shaikpet Nala, Toli Chowki, Hyderabad - 500009
4. The Consulate General of India, 71, Stevenson St, Suite 2200. San Francisco, California. United States of America (USA) 94105
5. Smt. Baggam Swetha Sri, W/o Shri Shivshankar Agarwal aged about 31 years Occ home maker R/o 401, Panchwati Layout Manikonda, Hyderabad - 500089.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction more in the nature of Writ of Mandamus under Article 226 of the Constitution of India declaring the Notification GSR No.570(E) dated 2/08/1993 and instruction No.V1/401/1/5/2019 as illegal arbitrary and against the principles of natural justice and against guarantees under the

Constitution of India consequently direct the Respondent Nos.2 to 4 to renew the Passport of the Petitioner for a period of 10 years vide Passport bearing No.Z3501823 in File No.BN2079075529516 under Section 10 of the Passports Act, 1967 and under Rule 10 of the Passport Rules, 1980 for a period of 10 years without any reference to the Notification issued by the Central Government vide GSR No.570(E) dated 25/08/1993 and instruction No. V1/401/1/5/2019.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent Nos.2 to 4 to receive and renew the Passport of the Petitioner herein vide Passport bearing No.Z3501823 in File No.BN2079075529516 under Section 10 of the Passports Act 1967 and under Rule 12 of the Passport Rules, 1980 without any reference to the Gazette Notification issued by the Central Government vide GSR No.570(E) dated 25/08/1993 and instruction No. VI/401/1/5/2019 pending disposal of the Writ Petition.

Counsel for the Petitioner : SRI T.SHARATH

**Counsel for the Respondent No.1to4 : SRI N.BHUVANGA RAO,
Dy.Solicitor General Of India**

Counsel for the Respondent No.5 : --

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.38237 of 2025

Dated:12.12.2025

Between:

Mrs. Nidhi Agarwal

...Petitioner

and

Union of India,
Representing by its Under Secretary,
Ministry of External Affairs, Patiala House Annex,
Tilak Marg, New Delhi – 110 001,
and five others.

...Respondents

ORDER:

Learned counsel Sri T.Sharath appears for the petitioner.

Sri N.Bhujanga Rao, learned Deputy Solicitor General of India, appears for respondents No.1 to 4.

2. The petitioner is under H-1B visa working as a Software Engineer in Meta Platforms INC at California, United States of America (USA), whose passport bearing No.Z3501823 in File No.BN2079075529516 issued on 20.01.2016 is going to expire on 19.01.2026. According to the petitioner, she has been implicated in a criminal case under Section 498A of the Indian Penal Code, 1860 (IPC), and Sections 3 and 4 of the Dowry Prohibition Act, 1961, as accused No.6 by the estranged sister-in-law i.e., wife of her brother in First Information Report (FIR) No.192/2024 dated 07.03.2024 in which a charge sheet has been filed by the police upon investigation. The matter is pending before the learned XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, being C.C.No.1188 of 2025. The petitioner contends that during the period of the offence alleged, she was all along in USA in connection with her job. Without proper investigation, she has been shown as accused No.6 (absconding). No such summons, warrant or attachment or proclamation has ever been served under the relevant provisions of the Code of Criminal Procedure,

1973 (Cr.P.C), upon the petitioner as she was all along in a foreign country during the alleged period of offence.

3. The instant FIR and charge sheet would attract the provisions of Section 6(2) of the Passports Act, 1967, in particular, clause (f). Section 6 prescribes that the passport authority shall refuse to issue a passport or travel document for visiting any foreign country on the enumerated grounds under sub-section (2) if the proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India. It is submitted that the Office Memorandum dated 10.10.2019 has been issued on the subject of the issue of passports to applicants against whom criminal cases are pending before a court of law in India. It refers to GSR 570(E) dated 25.08.1993, which provides that in case an applicant is an accused in connection with a criminal case pending in India, the passport could be issued for a short validity period of one year or for the period specified by the Court where the criminal case is pending. Clause (ii) of GSR 570(E) does

not make any distinction between matrimonial offences and other serious or heinous offences. In the case of the petitioner, on account of filing of charge sheet in respect of an offence registered under Section 498A of IPC and Sections 3 and 4 of the Dowry Prohibition Act, without even the petitioner being in the country during the period of offence, renewal of her passport could not be restricted to a period of one year, which in turn could have serious, adverse consequences and loss of employment. In ordinary cases, the passport is issued for a period of ten years as per Rule 12 of the Passport Rules, 1980. Faced with this predicament, the petitioner has approached this Court for a declaration that the instructions in the notification dated 25.08.1993 are unreasonable, discriminatory and offending Article 14 of the Constitution of India. The petitioner has also filed a criminal petition under Section 482 of Cr.P.C for quashing of the charge sheet which is pending before the learned Single Bench of this Court. The petitioner has, however, not approached the concerned criminal court where the case is pending. Therefore, it is prayed that the impugned provisions of the GSR 570(E) dated 25.08.1993

may be struck down so that the petitioner may be entitled to get renewal of her passport for a period of ten years, which would save her employment in USA under H-1B visa.

4. Learned Deputy Solicitor General of India appearing for respondents No.1 to 4 has opposed the prayer. He has referred to the office memorandum dated 10.10.2019 and the decision of the Delhi High Court referred to therein, whereunder a detailed instruction has been issued for processing passport applications in respect of those applicants who may have criminal proceedings pending a criminal case in India. It is submitted that the impugned clause of GSR 570(E) is neither unreasonable nor arbitrary, as it provides for sufficient width for an applicant to seek an appropriate order from the concerned court where the criminal case is pending for the purposes of issuance of passport for a period more than one year if the court is satisfied. If the petitioner is able to make out a case in her favour before the concerned court, it is open for the concerned court to take a view on her application for 'No

Objection Certificate' for renewal of passport for a period longer than one year. Therefore, the prayer of the petitioner is misconceived.

5. We have considered the submissions of learned counsel for the parties and taken note of the relevant provisions of the Passports Act and the office memorandum dated 10.10.2019, clause 2(a)(ii) of which is impugned herein. We may usefully extract hereunder the office memorandum dated 10.10.2019, whereunder GSR 570(E) dated 25.08.1993 has been clarified:

"No. VI/401/1/5/2019
Government of India
Ministry of External Affairs
PSP Division

Patiala House Annexe, Tilak Marg
New Delhi, the 10th October 2019

OFFICE MEMORANDUM

Subject: Issue of passports to applicants against whom criminal cases are pending before a court of law in India.

Reference is invited to Notification No. GSR 570(E) dated 25.8.1993 regarding issuance of passports to applicants who have criminal proceedings pending against them and whose applications would attract the provisions of clause (f) of sub-section (2) of Section 6 of the Passports Act, 1967.

2. GSR 570(E) dated 25.8.1993 is reproduced below for reference:

GSR 570(E) - In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No. GSR 298(E) dated the 14th April 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of subsection (2) of Section 6 of the said Act, subject to the following conditions, namely:-

- (a) *the passport to be issued to every such citizen shall be issued-*
 - (i) *for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or*
 - (ii) ***if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;***
 - (iii) *if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year;*
 - (iv) *if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.*
- (b) *any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;*
- (c) *any passport issued in terms of (a)(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;*

- (d) *the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.*

3. It may be noted that applicants may be refused passports only on grounds mentioned under Section 6(2) of the Passports Act, 1967. Section 6(2)(f) of the Act states that the passport authority shall refuse to issue a passport or travel document to an applicant on the ground that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India. GSR 570(E) dated 25.8.1993 was introduced to give relief to such applicants against whom criminal proceedings are pending before any Court of law in India but who may need to travel abroad for some urgent business. **With an undertaking under GSR 570(E) and an order from the Court, an applicant could be issued a short validity passport of one year validity or for the period specified by the Court.**

4. It has been noticed that there are an increasing number of references being received regarding passport applications attracting Section 6(2)(f). It has also been brought to Ministry's notice that there are a number of complex issues involved while processing such applications. During the proceedings in a recent court case, the Hon'ble High Court of Delhi in W.P. (CRL) No. 2844/2018 /CRL.M.A 48674/2018 has directed that guidelines be issued by the Ministry reiterating the procedure for processing of such applications and emphasizing that such applications need to be processed with due care and diligence.

5. In view of the above, the following instructions may be adopted while processing the passport applications in respect of those applicants who may have criminal proceedings pending before a criminal court in India:

- (i) The provisions of GSR 570(E) may be strictly applied in all cases. GSR 570(E) is a statutory notification and hence forms part of the Rules. It is to be noted that as per Section 5(2) of the Passports Act, 1967, the passport authority shall by order in writing take a decision whether to issue or refuse a passport, after making such inquiry, if any, as it may consider necessary. Moreover, Section 7 of the Passports Act, provides

that a passport or travel document may be issued for a shorter period than the prescribed period if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period. Rule 12 of the Passport Rules, 1980 only states that an ordinary passport shall be in force for a period of 10 years which implies that an ordinary passport cannot be issued beyond a period of 10 years.

- (ii) Whenever an applicant is submitting a 'No Objection Certificate' (NOC) from a Court of law in India, the applicant should be advised that undertaking as per GSR 570(E) should be complete in all respects and should mention all the pending criminal cases against the applicant. The undertaking will have a note clearly stating that if any false or incomplete information is submitted by an applicant, then his passport application is liable to be rejected.
- (iii) Extant instructions clearly lay down that such applications should be processed on pre-Police Verification (PV) mode. "Pre-PV" would be mandatory in all cases of applications submitted with GSR 570(E) to ensure that the undertaking submitted by the applicant is properly matched with the criminal cases mentioned in the Police Verification Report (PVR). Hence, such applications should not be accepted under Tatkaal nor such applications be moved to "post-PV" mode or "No-PV" mode without proper justification and approval to be recorded in writing.
- (iv) If an undertaking is incomplete or misleading and the applicant is found to have suppressed details of other criminal cases against the applicant, a Show Cause Notice should be issued to the applicant and action initiated against that applicant as per provisions of Section 12 of the Passports Act, 1967. If information that an applicant has obtained a passport by making a false submission or by suppressing material facts comes to light after the passport has been issued, the passport may be impounded or revoked as

per provision of Section 10(3) (b) of the Passports Act, 1967, after following the due procedure.

- (v) In case where the first Police Verification(PV) is 'Adverse', secondary police verification may be generated. While a secondary PV is generated, it should be accompanied by a detailed letter seeking clarification regarding the pending criminal cases against the applicant and the status of these cases. Apart from generating secondary PVR, the passport officers may, if considered necessary, call for discreet enquiry through the police authorities by sending the court order submitted by the applicant or even seek verification from other government agencies/departments, as the case may be.
- (vi) In case where the secondary Police Verification is also 'Adverse', it may be examined whether the details brought out in the police report match the undertaking submitted by the applicant. It may be noted that mere filing of FIRs and cases under investigation do not come under the purview of Section 6(2)(f) and that criminal proceedings would only be considered pending against an applicant if a case has been registered before any Court of law and the court has taken cognizance of the same.
- (vii) If the details given in the police report and the undertaking submitted by the applicant are matching, then the 'No Objection Certificate' issued by a Court of law submitted by the applicant would take precedence over any 'Adverse report submitted by the police. In such cases, the 'Adverse' report may be overruled with the written approval of the Passport Officer.
- (viii) If the details given in the PVR and the undertaking submitted by the applicant are at variance, then a notice may be issued to the applicant calling for clarification and advising the applicant to submit details of all pending criminal cases as well as to submit a revised No Objection Certificate (NOC).
- (ix) If it is brought to the notice of the authority that an applicant has criminal proceedings arrayed

against applicant before several courts of law, then the applicant may be advised to get NOC from all the concerned court(s). Normally, the Court Order would make a mention of the cases pending against the applicant as well as the prayer made by the applicant. This may be examined along with the undertaking submitted by the applicant and complaints or other court orders, if any, that may have been received against the applicant.

- (x) It may be noted that GSR 570(E) only exempts an applicant from the operation of Section 6(2)(f) and none of the other sub-sections of Section 6(2) of the Passports Act, 1967.
- (xi) A revised Undertaking under GSR 570(E) is attached at Annexure 'A'.
- (xii) Passport Officers may issue an internal SOP along the above lines so that there is no confusion in handling of applications that would attract provisions of section 6(2)(f) of the Passports Act, 1967.

6. The above instructions may be noted for strict compliance with immediate effect.

sd/-

(Arun Kumar Chatterjee)
Joint Secretary (PSP) &
Chief Passport Officer"

6. Under the Passports Act, duration of passports and travel documents and extension of period of passport are prescribed in Sections 7 and 8. Section 6 provides for conditions in which the passport authority shall refuse to make an endorsement for visiting any country under the enumerated clauses of sub-section (2) of Section 5. One of the conditions under sub-section (2) of Section 6 is the

pendency of an offence committed by the applicant before a criminal court in India. In order to deal with the cases relating to such applicants, GSR 570(E) dated 25.08.1993 was issued. The said GSR 570(E) has been further clarified in office memorandum dated 10.10.2019.

7. On a perusal of the relevant provisions of the Passports Act and the conditions enumerated under GSR 570(E) with its clarification at paragraph 3 quoted above in the office memorandum dated 10.10.2019, we find that in cases where criminal proceedings are pending before any court in India, the applicant can seek no objection certificate from the concerned court for issuance of a passport for a short validity period of one year or for the period specified by the court. The instant office memorandum, therefore, prescribed guidelines where the applicant can plead before the concerned criminal court for issuance of no objection for renewal of his/her passport beyond the short period of one year if his/her *bona fides* and facts and circumstances of the case do warrant.

8. Therefore, we are of the view that the impugned clause under GSR 570(E) dated 25.08.1993 is neither arbitrary nor suffers from the vice of unreasonable classification. It can be gathered that the instructions provide for enough flexibility to take into account the criminal cases of different nature and also the facts and circumstances attached with the particular accused/applicant seeking renewal of passport. In the present case, the petitioner has not approached the concerned criminal court of XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, where the C.C.No.1188 of 2025 is pending. Learned counsel for the petitioner submits that the petitioner could not approach the concerned court because she was abroad in connection with her employment. In fact, she is inclined to make the online application for renewal of her passport but for this restrictive condition.

9. The petitioner at the same time, approached this Court under Section 482 of Cr.P.C for quashing of the

charge sheet. We do not wish to make any comments as it may influence the proceedings under Section 482 Cr.P.C.

10. However, we are of the view that the petitioner should approach the concerned court of XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, where the C.C.No.1188 of 2025 is pending, with an application for issuance of a no objection certificate and ancillary prayers as may be required in the facts and circumstances. The learned XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, would consider the application of the petitioner in accordance with law without any delay, since the passport of the petitioner is going to expire on 19.01.2026. Learned counsel for the petitioner submits that the learned criminal court may be directed to dispose of the matter in a time-bound manner. As such, let the petitioner approach the learned XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, by 15.12.2025. If such application is made in the pending criminal case by the petitioner, the learned court would take up the matter as early as possible, preferably, within

the same week and after hearing the parties, pass such orders as may be required in accordance with law within a period of ten days thereafter.

11. With the aforesaid observations and directions, the instant writ petition is disposed of. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/- AHMED ABDULLA KHAN
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Under Secretary, Union of India, Ministry of External Affairs, Patiala House Annex, Tilak Marg, New Delhi - 110 001.
2. The Regional Passport Officer, S.P. Road, Secunderabad. Hyderabad - 500003
3. The Assistant Passport Officer, 8-1-305/306, Anand Silicon Chip, Shaikpet Nala, Toli Chowid, Hyderabad - 500009
4. The Consulate General of India, 71, Stevenson St, Suite 2200. San Francisco, California. United States of America (USA) 94105
5. One CC to SRI T.SHARATH, Advocate. [OPUC]
6. One CC to SRI N.BHUJANGA RAO, Deputy Solicitor General of India, High Court for the State of Telangana at Hyderabad. [OPUC]
7. Two CD Copies.

BSK

GJP

HIGH COURT

DATED:12/12/2025



ORDER

WP.No.38237 of 2025

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

10
Asu
12/12/25