

2023 SCC OnLine Bom 1652

In the High Court of Bombay at Goa  
(BEFORE M.S. SONAK AND BHARAT P. DESHPANDE, JJ.)

Olga Rosnina ... Petitioner;

*Versus*

Foreigners Regional Registration Office and Others  
... Respondents.

Writ Petition No. 351/2023

Decided on August 7, 2023

Advocates who appeared in this case:

Mr. A. D. Bhohe, Ms. A. Fernandes and Ms. R. Prazeres, Advocates for the Petitioner.

Mr. P. Faldessai, Deputy Solicitor General of India for the Respondents.

The Judgment of the Court was delivered by

M.S. SONAK, J.:— Heard Mr. A. D. Bhohe for the petitioner and Mr. P. Faldessai, learned Deputy Solicitor General of India for the Respondents.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

3. The petitioner challenges the deportation order dated 17.05.2023 and order dated 07.02.2023 by which her VISA extension for foreigners services has been deleted.

4. The impugned deportation order was made based on the alleged violation of E-VISA condition subject to which the petitioner was allowed to stay in India. Mr. Bhohe submitted that there was no violation, and in any case, such a drastic order should not have been made without minimum compliance with the principles of natural justice and fair play.

5. Mr. Bhohe submitted that the petitioner, without prejudice has applied on 07.02.2023 for dependency VISA. He submits that even this application was denied based upon the impugned order dated 17.05.2023. Mr. Bhohe points out that the application for dependency VISA was made after the petitioner tendered her resignation from the company.

6. Mr. Faldessai submits that there was a violation of the terms and conditions of the E-VISA and therefore, the impugned order dated 17.05.2023 had to be made. He submitted that since a deportation order was made, there was no question of considering any further

application for dependency visa.

7. The rival contentions now fall for our determination.

8. In the peculiar facts of the present case, we think that the impugned deportation order dated 17.05.2023 should not have been made without minimum compliance with principles of natural justice and fair play. This is because the petitioner had claimed that she had not violated any of the terms and conditions subject to which she was granted the VISA. Principles of natural justice and fair play are an essential concomitant of Article 14 of the Constitution of India. This Article protects not only the citizens but also non-citizens. Whilst the Central Government is vested with wide powers in matters of deportation, such powers must be exercised fairly and without any hint of arbitrariness. This was not some case of threat to internal security of the country or like matters. The unilateral allegation was about breach of one particular condition subject to which the VISA was granted. At least a clarification could have been sought from the petitioner and upon considering the same, a decision could have been taken. This was not done. Therefore, on this short ground, we set aside the impugned deportation order dated 17.05.2023.

9. The petitioner, claims to have resigned from the company so that there is no doubt about compliance with the terms and conditions of the VISA. After such resignation, the petitioner has now applied for a dependency VISA. Even this dependency VISA was denied based upon the impugned deportation order dated 17.05.2023.

10. Now that the impugned deportation order dated 17.05.2023 is set aside, the order denying the dependency VISA ought not to survive. The denial order is also quashed and set aside.

11. The concerned respondents are directed to now decide petitioner's application dated 07.02.2023 for dependency visa as expeditiously as possible and in any case within two months from today. Until this application is decided, the petitioner shall not be deported subject to her complying with the usual terms and conditions subject to which she was permitted to stay in India.

12. The concerned respondents must communicate this decision to the petitioner within fifteen days from the date of their decision.

13. The Rule is made absolute in the above terms without any cost order.

14. All concerned to act on the authenticated copy of this Order.