

Union Of India & Ors vs Smt. Charanjit Kaur on 20 January, 1987

Equivalent citations: 1987 AIR 1057, 1987 SCR (1)1080, AIR 1987 SUPREME COURT 1057, 1987 (1) SCC 471, 1987 CRILR(SC MAH GUJ) 209, 1987 SCC(CRI) 185, (1987) 1 SUPREME 77, 1987 (1) UJ (SC) 341, 1987 UJ(SC) 1 341, (1987) 1 JT 195 (SC), (1987) 1 SCJ 259

Author: O. Chinnappa Reddy

Bench: O. Chinnappa Reddy, V. Khalid

PETITIONER:
UNION OF INDIA & ORS.

Vs.

RESPONDENT:
SMT. CHARANJIT KAUR

DATE OF JUDGMENT 20/01/1987

BENCH:
REDDY, O. CHINNAPPA (J)
BENCH:
REDDY, O. CHINNAPPA (J)
KHALID, V. (J)

CITATION:
1987 AIR 1057 1987 SCR (1)1080
1987 SCC (1) 671 JT 1987 (1) 195
1987 SCALE (1)86

ACT:
Passport Act, 1967 ss. 10(3)(c) &
10(5)--Passport--Impoundment of for activities detrimental
to sovereignty, integrity and security of India--Relevancy
of material.

HEADNOTE:

The respondent, wife of a protagonist of Khalistan residing abroad, during her visit to India was found meeting extremist leaders in Punjab. Her passport was impounded by the Regional Passport Officer under s. 10(3)(c) of the Passport Act, 1967 in view of the grave nature of her activities and serious implications in terms of sovereignty, integrity and security of the country. The reasons for the

order were however, not furnished to her in view of the provisions of s. 10(5) of the Act. The order was confirmed on appeal by the Chief Passport Officer.

The High Court took the view that there was no danger in presenti from respondent's activities, and quashed the order on the ground that there was no material for the conclusion of the Passport Officer that impounding of the passport was necessary.

In this appeal by Special Leave by the Union of India it was contended that there was information before the Regional Passport Officer justifying the order and it was not open to the Court to assess the sufficiency or otherwise of such information. On behalf of the respondent it was urged that there was no material whatsoever to indicate that the respondent was involved in any sort of political or prejudicial activity and that her passport had been impounded merely because she was the wife of a protagonist of Khalistan.

Allowing the Appeal, the Court,

HELD: 1.1 The order impounding the respondent's passport was based on relevant material. The fact that she was the wife of an extremist leader residing abroad was not an irrelevant circumstance though singly, by itself it may appear innocuous. That circumstance has to be viewed in conjunction with other circumstances. The respondent had chosen to visit Punjab in troubled days and to call on Sant

1081

Bhindranwala, the acknowledged leader of the militant Sikh movement, in the company of Balbir Singh Sandhu, self-styled Secretary-General of the National Council of Khalistan. She was reported to have come to India in the month of October, 1983 to see her mother who was said to be seriously ill. She tried to leave India on August 18, 1984. The authorities were, therefore, justified in suspecting the respondent of being an emissary or a contact person between the extremist leader stationed abroad and the Sikh militants in India. [1084C-G]

1.2 If in the circumstances then existing and the material available with him the Regional Passport Officer thought that the respondent was likely to indulge in a manner detrimental to the sovereignty, integrity and the security of India, it could not be said that he was acting on no material. [1084G]

2. The High Court was wrong in assuming that the Bhindranwala factor was extinguished with his death. Movements don't die with individuals. It could not also be said that there was no present danger on the date of the impounding of the passport because that was two months after Bhindranwala's death. There was no justification for treating such a recent event as an incident of the ancient past. [1084G-H; 1085A-B]

Maneka Gandhi v. Union of India, [1978] 2 SCR, 621, referred to

JUDGMENT :

CIVIL APPELLATE JURISDICTION: Civil Appeal No.2793 of 1985.

From the Judgment and Order dated 13.5. 1985 of the Punjab and Haryana High Court in C.W.P. No.236 of 1985 B. Datta, Additional Solicitor General, C.V. Subba Rao and P. Parmeshwaran for Appellants.

Hardev Singh and R.S. Sodhi for the Respondent. The Judgment of the Court was delivered by CHINNAPPA REDDY, J. The passport of Smt. Charanjit Kaur wife of Dr. Jagjit Singh Chauhan was impounded by the Regional Passport Officer, Delhi by an order dated August 18, 1984. The reasons for the order were not furnished to her "in view of the grave nature of her activities and serious implications in terms of sovereignty and integrity of India and the security of India" in terms of Section 10(5) of the Passport Act, 1967. The reasons are however, to be found in the note made by the Regional Passport Officer on the same day. Paragraphs 1 to 3 of the note are as follows:

"Ref. Ministry of External Affairs, New Delhi letter No. V.I/405/1/102/84 dated 18.8. 1984 relating to the activities of Smt. Charanjit Kaur wife of Shri Jagjit Singh Chauhan. Smt. Chauhan is reported to have links with Sikh extremists and may engage in activities detrimental to the security of India. She is also planning to leave India shortly.

2. Reported activities detrimental to the security of India, attract the provision of Section 10(3)(c) of the Passport Act, 1967.

3. Due to the seriousness of the case and the likelihood of the subject trying to leave the country, in public interest, it is not considered necessary to issue a separate show cause notice. The same may, however, be incorporated in the impounding order. The right of the subject for appeal and the procedure in this regard may please also be explained in the impounding order, as per the Rules."

The basis of the communication from the Ministry of External Affairs to the Regional Passport Officer was the information furnished by the Intelligence Bureau in two letters to the following effect:

"According to a report Charanjit Kaur wife of Dr. Jagjit Singh-Chauhan self-styled President of the so-called National Council of Khalistan who is now resident in U.K. is planning to leave India in the next few days. We are not aware of her passport particulars. There are reasons to believe that she has links with Sikh extremists and may engage in activities detrimental to the security of the country and therefore she should not be allowed to leave India. It is requested that the MHA may consider the advisability of impounding her passport." and,

2. Our enquiries reveal that Smt. Charanjit Kaur is presently residing at Tanda and Nagal Khunga both in Hoshiarpur District.

3. Smt. Charanjit Kaur has not come to notice participating openly in political activities. She is however the wife of Dr. Jagjit Singh Chauhan President of the so-called National Council of Khalistan based in U.K. who has also been engaged in sustained anti-India and secessionist activities. According to the disclosures made by Smt. Charanjit Kaur and Balbir Singh Sandhu self-styled Secretary General of the National Council of Khalistan used to hold frequent meetings in camera with Bhindrawala and his P.A. and they served as an important channel between Bhindrawala and his foreign links.

4. Smt. Chanranjit Kaur has also been person- ally pursuing the court cases of her husband and one Ram Singh Tihara a Khalistan Protago- nist in the Punjab and Haryana High Court."

The order of the Regional Passport Officer which was later confirmed on appeal by the Chief Passport Officer was quashed by the High Court of Punjab and Haryana on the ground that there was no material for the conclusion of the Regional Passport Officer that impounding of the passport was necessary in the interests of the security and integrity of India and the security of India. The High Court expressed the view that the "Bhindrawala factor" stood eliminated long before the making of the order since Bhindrawala died on 6.6.84 whereas the order impounding the passport was made on 18.8.84. According to the High Court it could not therefore be said that there was any danger in presenti from the activities of Smt. Charanjit Kaur. The High Court appeared to think that the order was made for the sole reason that Smt. Charanjit Kaur happened to be the wife of Dr. Jagjit Singh Chauhan. The Union of India has preferred this appeal by special leave to this Court under Art. 136 of the Consti- tution. The learned Additional Solicitor General submitted that there was information before the Regional Passport Officer about the activities of the respondent which was prejudicial to the interests of the sovereignty and integri- ty of India and the security of India and that it was not open to the Court to assess the sufficiency or otherwise of the such information. He relied on the observations of this Court in *Maneka Gandhi v. Union of India*, [1978] 2 S.C.R. 621 where it was observed:

"In matters such as, grant, suspension, im- pounding or cancellation of passports, the possible dealing of an individual with nation- als and authorities of other States have to be considered. The contemplated or possible activities abroad of the individual may have to be taken into account. There may be ques- tions of national safety and welfare which transcend the importance of the individual's inherent right to go where he or she pleases to go There can be no doubt whatsoever that the orders under Section 10(3) must be based upon some material even if that material consists, in some cases, of reasonable suspi- cion arising from certain credible assertions made by reliable individuals ..."

The learned counsel for the respondent, on the other hand, urged that there was no material whatsoever to indicate that the respondent was involved in any sort of political or prejudicial activity and the High Court was right in holding that her passport had been impounded merely because she was the wife of Dr. Jagjit Singh Chauhan. We think that the appeal has to be accepted. The fact that the respondent is the wife of Dr. Jagjit Singh Chauhan, 'Self-styled President of the so-called National Council of Khalistan' is not an irrelevant circumstance though singly, by itself, it may appear innocuous. The circumstance has to be viewed in conjunction with other circumstances. Here, we have the circumstance that the wife of the 'Self-styled President of the so-called Khalistan' who is stationed in England has chosen to pay a visit to Punjab in these troubled days and to call on Bhindrawala the acknowledged leader of the militant Sikh movement in the company of Balbir Singh Sandhu, 'Self-styled Secretary General of the National Council of Khalistan. She was reported to have come to India in the month of October, 1983, to see her mother who was said to be seriously ill. She tried to leave India on 18.8.1984. Her mother died in the month of November, 1985. In the context of the circumstance then existing and the materials available with the authorities, it can surely be said that the authorities were justified in suspecting her of being an emissary or a contact person between Dr. Chauhan and the Sikh militants in India. If the Regional Passport Officer thought that she was likely to indulge in a manner detrimental to the sovereignty and integrity of India and the security of India, it cannot be said that he was acting on no material. We do not agree with the High Court that the 'Bhindranwala factor' was extinguished with the death of Bhindranwala. We do not understand the High Court's view at all. The movement which Bhindranwala represented has not died. Movements don't die with individuals. Nor do we understand the view of the High Court that there was no present danger on the date of impounding of the passport because that was two months after Bhindranwala's death. We do not see any justification for treating such a recent event as an incident of the ancient past. We are satisfied that the order impounding the respondent's passport is based on relevant material and not merely on the sole circumstance that she is the wife of Dr. Jagjit Singh Chauhan. The appeal is allowed, the judgment of the High Court is set aside and the Writ Petition is dismissed. We wish to add that it is always open to the authorities concerned to review the impounding order if they so desire. We are adding this sentence because Sri Harder Singh argued that impounding the passport meant a permanent deprivation of the passport.

Before we part with the case we must express our strong disapproval of the wholesale condemnation of the Medical Profession in India by the High Court, implicit in the following observation made by the High Court: "I may quote an actual case to highlight the ignorance of Indian Doctors about the latest techniques practised abroad". The occasion for making the remark was the argument advanced on behalf of the respondent that he wanted to go back to England for better treatment of her ailments. We consider that the remark was totally uncalled for. The High Court also appeared to suggest that the Government of India should permit the respondent Charanjit Kaur to go back to England and in support of the suggestion relied on the appeal of Late Prime Minister Mrs. Indira Gandhi to General Zia to permit Begum Bhutto to go abroad for treatment. The reference to the appeal of Mrs. Gandhi to General Zia, in the context of the facts of this case, appears to us to be entirely irrelevant.

P. S. S.
allowed.

Appeal

