



[2024:RJ-JP:44683]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 16380/2024

Neeraj Saxena S/o Sh. M.I. Saxena, Aged About 59 Years, R/o
54/81, Mansarovar, Jaipur, Rajasthan.

----Petitioner

Versus

Rajasthan Electronics And Instruments Ltd., Jaipur, 2, Kanakpura
Industrial Area, Sirsi Road, Jaipur Through Its Managing Director

----Respondent



For Petitioner(s) : Mr. Akhil Simlote
Mr. Dikshant Jain
For Respondent(s) : Mr. Kapil Sharma

JUSTICE ANOOP KUMAR DHAND

Order

23/10/2024

Reportable

1. The issue involved in this petition is "whether the petitioner can be deprived of travelling abroad because of the pendency of departmental enquiry against him." As a matter of fact the son of the petitioner is residing at Singapore, and the petitioner wants to visit him for family reasons for a period of six days, but permission has not been granted to him by the respondent-department on the ground that a departmental charge-sheet has been issued against him. In this background, the issue involved in this petition is required to be decided.

2. The instant writ petition has been filed with the following prayer:-

- i. Call for the entire record of the case and examine the same;
- ii. By an appropriate writ, order or direction in the nature thereof, thereby direct the respondent to



grant permission to the petitioner to travel abroad (Singapore) from 30.10.2024 to 04.11.2024.

iii. Any other appropriate order or direction which your Lordships may deem fit and proper in favour of the Petitioner may also be passed in the interest of justice.

iv. Cost of Writ Petition may kindly be awarded in favour of the Petitioner.”

3. The fact of the case, in brief, are that the petitioner made an application before the respondent-department on 26.09.2024 for granting him permission to travel Singapore with effect from 30.10.2024 to 04.11.2024 to meet his son. Counsel submits that an application in this regard was submitted by the petitioner on 26.09.2024, but inspite of passing of considerable time, the said application has not been decided by the respondent-department for the reasons best known to them. Hence, under these circumstances, the petitioner has approached this Court with the above prayer.

4. Learned counsel submits that right to travel abroad, and meet his son who is residing in abroad, is the fundamental right of the petitioner contained under Article 21 of the Constitution of India. Counsel submits that the respondent-department cannot curtail or violate the aforesaid right of the petitioner.

5. In support of his contention he has placed reliance upon the judgment passed by the Apex Court in the case of **Satish Chandra Verma Vs. Union of India and Ors.**, in **Civil Appeal No.3802/2019**, decided on 09.04.2019.





6. *Per contra*, learned counsel for the respondent opposed the arguments raised by the counsel for the petitioner and submitted that a charge-sheet was served upon the petitioner on 21.10.2024 wherein charges have been framed against him and a Departmental Enquiry has been initiated thereto. Hence, under these circumstances, the petitioner cannot be allowed to travel abroad and the instant petition is liable to be rejected on this count alone.

7. Heard and considered the submissions made at Bar and perused the material available on the record.

8. Perusal of the record indicates that the son of the petitioner is residing at Singapore and owing to family reasons, the petitioner wants to travel abroad to meet his son and in this regard, he submitted an application before the respondent, seeking permission to visit Singapore with effect from 30.10.2024 till 04.11.2024, but the aforesaid application submitted by the petitioner remained unaddressed. Hence under these circumstances, the petitioner approached this Court by way of filing of this writ petition.

9. This Court vide order dated 19.10.2024 issued notice to the respondent and the case was ordered to be listed before this Court on 23.10.2024. It appears that the respondent was served on 19.10.2024 and after receipt of the notice of this Court, the respondent has served charge-sheet upon the petitioner on 21.10.2024, to defeat the purpose of the instant writ petition. The petitioner is not involved in any criminal case and if at all, the respondent-department wants to conduct any departmental





enquiry against the petitioner, they are free to act in accordance with law, but this cannot be a ground to deny permission to the petitioner to travel abroad to meet his son, who is residing at Singapore. Such action on the part of the respondent amounts to violation of the fundamental right to personal liberty of the petitioner contained under Article 21 of the Constitution of India.

10. Hon'ble Apex Court in the case of **Smt. Maneka Gandhi Vs. Union of India**, reported in **AIR 1978 SC 597**, has held that the expression "personal liberty" under Article 21 of the Constitution of India has a wider amplitude which includes right to go abroad. A person cannot be deprived to this right except in accordance with the procedure prescribed by the law.

11. Similarly in the case of **Satish Chandra Verma** (supra), the Hon'ble Supreme Court has held as under:-

"The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage; family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right."

12. It has also been held in the case of **Satish Chandra Verma** (supra) that pendency of departmental proceeding cannot be a ground to prevent a person from travelling abroad.





13. Even the Supreme Court of the United States in the case of **Kent v. Dulles**, reported in **357 US 116 1958**, decided on 16.06.1958, has held as under:-

“(i) Freedom to go abroad has much social value and represents the basic human right of great significance.

(ii) Right to travel is a part of “liberty” of which a citizen cannot be deprived without due process of law.”

14. In view of the above, this Court is of the view that there can be no reason for the respondent to refuse permission to the petitioner to travel abroad just because a charge-sheet has been served upon the petitioner and domestic enquiry in departmental proceedings is pending against him.

15. This court is required to draw a balance between the right of the petitioner to travel abroad and also the right of the department to duly proceed with the enquiry against the petitioner. From perusal of the various judgments passed by the Hon’ble Apex Court, it is clear that the paramount consideration is given to the condition imposed upon the person who has been granted permission to go abroad, so as to ensure that they do not flee from the enquiry. For ensuring the presence of the petitioner before the department, any appropriate conditions can be imposed and in case the conditions imposed by law are violated, appropriate coercive action can be taken.

16. In view of the above discussion, the respondent are directed to grant permission to the petitioner to travel to Singapore with effect from 30.10.2024 till 04.11.2024 on the following conditions,





subject to furnishing of an undertaking by him before this Court as well as before the respondent that:-

(i) He will return to India on or before 06.11.2024 and he will furnish an undertaking before this Court as well as before the Department, for the same.

(ii) He will put appearance before the department after his arrival in India for participating in domestic enquiry.

(iii) He shall not visit any other country except Singapore, for which permission to travel abroad has been granted.

17. It is further made clear that in case the petitioner does not return to India within the time granted by this court, the Department shall be at liberty to proceed against the petitioner in accordance with law.

18. The petition is disposed of with the abovesaid terms.

19. Stay application and all pending applications (if any), also stand disposed of.

20. It goes without saying that the respondent would be at liberty to proceed against the petitioner in the Departmental Enquiry in accordance with law.

(ANOOP KUMAR DHAND),J

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