

The Passports Act, 1967

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The Passports Act, 1967

[Act 15 of 1967]

[24th June, 1967]

*An Act to provide for the issue of passports and travel documents,
to regulate the departure from India of citizens of India and
other persons and for matters incidental or
ancillary thereto*

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Statement of Objects and Reasons.—Prior to the decision of the Supreme Court in *Satwant Singh Sawhney v. Passport Officer*, AIR 1967 SC 1836 : (1967) 3 SCR 525, passports were issued by the Government in exercise of its executive power to conduct foreign relations. A passport was considered to be essentially a political document, issued in the name of the President of India to the Governments of, or authorities in foreign countries requesting them to afford facilities of safe travel to the holder in their territories and to provide him necessary assistance and protection. The presence abroad of a passport-holder and the manner in which he conducts himself while there, the treatment meted out to him by foreign Governments or authorities, necessarily bring into play the relations between India and the foreign countries concerned. Government might have to protect his interests abroad vis-a-vis a foreign State and might also have to arrange for his repatriation to India at public expense, should he become destitute or a public charge. For all these and other reasons such as diplomatic and consular practice and usage and international practice and usage, Government had claimed an absolute discretion in the matter of issuance of passports, though it had taken adequate precautions by issuing suitable administrative instructions to ensure that the power was not used in an arbitrary manner. The majority decision of the Supreme Court in the case aforementioned denied the Government any such absolute power though the minority upheld Government's viewpoint. The majority held, inter alia, that the right to travel abroad is a part of a person's personal liberty of which he could not be deprived except according to procedure established by law in terms of Article 21 of the Constitution and as there was no law establishing such procedure, the Government had no right to refuse a passport to any person who might have applied for the same. The majority also held that Government's claim for an absolute discretion in the matter of issuance of passports would also be violative of Article 14 of the Constitution. It thus became urgently necessary to regulate the issuance of passports and travel documents by law. As Parliament was not in session, and Ordinance, namely, the Passports Ordinance, 1967, was promulgated for the purpose.

2. The Ordinance prohibited the departure from India of any person without a passport or travel document. It provided for the machinery necessary for the issuance of passports. It also provided for the procedure for obtaining passports and travel documents and clearly defined the grounds on which passports or travel documents or endorsements on passports or travel documents for visit to any foreign country might be refused. The Ordinance also made provisions for impounding or revocation, of passports or travel documents and clearly defined the grounds for such impounding or revocation. Suitable provisions were incorporated in the Ordinance as to appeals against orders of refusal of passports or endorsements, revocation or impounding of passports, etc.

3. The present bill seeks to replace the ordinance by an Act of Parliament. The Notes on clauses explain in detail the various provisions of the Bill. *vide* Gazette of India., Extra., Part II, Section 2, dated May 29, 1967, P. 372.

Statement of Objects and Reasons of Amending Act 31 of 1978.—Section 5(1) of the Passports Act, 1967 provides that all applications for the issue of a passport shall be in such form, contain such particulars and be accompanied by such fee (if any) not exceeding rupees twenty-five as may be prescribed. Presently, the fee payable in respect of a passport (valid for five years from the date of issue) is rupees twenty-five, being the maximum prescribed under the Act.

From 1st June, 1960 until December, 1971, the fee for an ordinary passport remained unchanged at rupees fifteen. The passports were then valid for only three years. The fee was revised from 1st December, 1971 to rupees twenty-five and at the same time, the period of validity of the passport was increased from three to five years. Thus, since 1st June, 1960, for a period of seventeen and a half years, the fee has remained constant at rupees five per annum.

The cost of providing passport service in India has gone up in these years owing not only to increases in salaries and allowances of the personnel employed in Passport Offices but also due to the increase in accommodation charges and increase in the cost of equipment and service which the Passport Offices need. Similarly, the cost of providing passport services abroad has also increased sharply owing to inflation in foreign countries. The fee fixed under the Passport Rules, 1967 is charged from every Indian citizen whether the application is made in India or abroad.

At present, there are nine Regional Passport Offices of these, some cover more than one State and very large areas. For example, the Regional Passport Office in Delhi covers Jammu and Kashmir, Delhi and Rajasthan, the Office in Lucknow covers Uttar Pradesh and Madhya Pradesh, the Office in Calcutta covers West Bengal, Orissa and all the north-eastern States and the Madras Office covers both Tamil Nadu and Karnataka. In order to provide a better service to the public in States which do not have a Passport Office, it would be necessary to open more Regional Passport Offices.

For the above reasons, it is considered necessary to increase the fee in respect of a passport for visiting foreign countries, other than a foreign country to be specified by rules, from rupees twenty-five to rupees fifty and the fee thus increased will also cover the postal charges for despatching the passport by registered post to the applicant. In respect of a passport for visiting a foreign country to be specified by rules, the fee will be at such rate not exceeding the maximum mentioned in the legislation.

It is also proposed to specify that a person who makes an application, on or after the date of introduction of the Bill in Parliament for the issue or renewal of a passport will be required to pay, after the Bill becomes law, the difference between the fee as approved in the legislation and the fee already paid by him.

Opportunity is being taken to amend the relevant sections in the Act—

- (a) to make references to the Code of Criminal Procedure, 1973 and the Foreign Exchange Regulation Act, 1973 since the earlier laws on the subject have been repealed; and
- (b) for modifying the rule-laying formula to bring it in conformity with the recommendation of the Committee on Subordinate Legislation.

The Bill seeks to achieve the above objects.

Statement of Objects and Reasons of Amending Act 35 of 1993.—On the basis of the experience gained in the administration of the Passports Act, 1967, it is found necessary to amend the said Act for its better administration.

2. The Bill proposes, inter alia,—

- (a) to empower the Central Government to prescribe the fee by rules taking into consideration the actual expenditure to be incurred in designing and preparation of the passport booklet;
- (b) to provide for extension of validity period of passport issued for a shorter period;
- (c) for impounding other passports of the holder of a passport if he obtains a passport by suppression of material information, etc.;

- (d) to enhance the punishment from six months' imprisonment to two years' imprisonment and from two thousand rupees to five thousand rupees fine for the offences under Section 12;
- (e) to make a new provision providing for stringent punishment for a person who is not a citizen of India if he makes or obtains a passport by suppression of information about his nationality, etc.

3. The Bill seeks to achieve the above objects.

Statement of Objects and Reasons of Amending Act 17 of 2002.—Section 10 of the Passports Act, 1967, inter alia, contains provisions for variation, impounding and revocation of passports and travel documents. There was no statutory provision in the said Act to prevent a person indulging in criminal or anti-national activities from leaving the country during the period when action to revoke or impound his passport was initiated. For some time past, the concerned authorities were issuing Look Out Circulars to prevent such person from leaving the country.

2. In view of the above, it was decided to amend the Passports Act, 1967 conferring powers upon the concerned authorities to suspend the passports or travel documents in appropriate cases and to validate the intimations issued by way of Look Out Circulars. Accordingly, the Passports (Amendment) Ordinance, 2001 (Ord. 8 of 2001) was promulgated on the 23rd day of October, 2001, so as to—

- (a) insert new Section 10-A in the Passports Act, 1967 conferring power upon the Central Government or the designated officer to suspend the passport or travel document for a period not exceeding four weeks if it or he is satisfied that the passport or travel document is likely to be impounded or caused to be impounded or revoked under clause (c) of sub-section (3) of Section 10 of the said Act;
- (b) confer power upon the Central Government or the designated officer to extend the said period of four weeks till the proceedings relating to variation, impounding or revocation of passport or travel document under Section 10 of the Passports Act, 1967 are concluded;
- (c) insert new Section 10-B in the Passports Act, 1967, validating the intimations given, before the commencement of the Passports (Amendment) Ordinance, 2001, by the Central Government or the designated officer to any immigration authority restricting or in any manner prohibiting the departure from India of any holder of the passport or travel document under sub-section (3) of Section 10 of the Passports Act, 1967.

3. The Bill seeks to replace the said Ordinance.

1. Short title and extent.—(1) This Act may be called the Passports Act, 1967.

(2) It extends to the whole of India and applies also to citizens of India who are outside India.

CASE LAW ▶ Nature and Scope.—Primarily the law relating to passport is regulatory law and contemplates different kinds of situations, which have to be dealt with by the authorities in accordance with the provisions of the Passports Act. Of course Section 12 of the Passports Act provides for offence and penalties for contravention of certain specific provisions but the prime object of the Act is to regulate issuance of passport, *Naresh Lalchand Bhagchandani v. Union of India*, (2007) 5 Mah LJ 56.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “departure” with its grammatical variations and cognate expressions, means departure from India by water, land or air;
- (b) “passport” means a passport issued or deemed to have been issued under this Act;



CASE LAW ► Passport, purpose and use.—A passport, whether in England or in the United States of America serves diverse purposes; it is a “request for protection”, it is a document of identity, it is a prima facie evidence of nationality, in modern times it not only controls exit from the State to which one belongs, but without it, with a few exceptions, it is not possible to enter another State. It has become a condition for free travel. *Satwant Singh Sawhney v. APO., New Delhi*, AIR 1967 SC 1836 : (1967) 3 SCR 525. A passport is issued to a traveller by the Government of his own country. *Choithram v. AG Kazi*, AIR 1966 Bom 54.

A passport is very strong evidence of recognition by the officially authorised agencies of a State given to the nationality of a citizen of the State. Its effect can only be get rid of by proving facts which nullify the passport altogether and make it no passport in the eye of law at all. *Mashkurul Hasan v. Union of India*, AIR 1967 All 565.

A passport is a piece of evidence as to the nationality. *AG Kazi v. CV Jethwani*, AIR 1967 Bom 235.

A passport when issued to a citizen who goes out of his country to a foreign land, is a political document by which the bearer is recognized in foreign countries as a citizen of the country which issued the passport. *Rabinder Nath Malik v. Regional Passport Officer*, AIR 1967 Del 1.

A passport is a tangible thing, a useful document and could be the subject of ownership or exclusive possession and so is property within the meaning of the section. *Nrisingha Murari Chakraborty v. State of W.B.*, (1977) 3 SCC 7 : 1977 SCC (Cri) 417.

► **Date of birth.**—Date of birth noted in the passport cannot be rectified by producing the Secondary School Certificate and Transfer Certificate. Proper course is to file a civil suit and obtain declaration regarding the date of birth and then approach the passport office with a request to make the corrections, *Mohammed Ayub Khan v. Regional Passport Officer, Hyderabad*, (2005) 2 AP LJ 47 (SN).

- (c) “passport authority” means an officer or authority empowered under rules made under this Act to issue passports or travel documents and includes the Central Government;
- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “travel document” means a travel document issued or deemed to have been issued under this Act.

3. Passport or travel document for departure from India.—No person shall depart from, or attempt to depart from, India unless he holds in this behalf a valid passport or travel document.

Explanation.—For the purposes of this section,—

- (a) “passport” includes a passport which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed under the Passport (Entry into India) Act, 1920 (34 of 1920), in respect of the class of passports to which it belongs;
- (b) “travel document” includes a travel document which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed.

CASE LAW ► Requirement of passport.—An Indian citizen cannot enter India from abroad unless he is in possession of a valid passport. *Choithram v. AG Kazi*, AIR 1966 Bom 54.

4. Classes of passports and travel documents.—(1) The following classes of passports may be issued under this Act, namely:—

- (a) ordinary passport;
- (b) official passport;
- (c) diplomatic passport.

(2) The following classes of travel documents may be issued under this Act, namely:—

- (a) emergency certificate authorising a person to enter India;
- (b) certificate of identity for the purpose of establishing the identity of a person;
- (c) such other certificate or document as may be prescribed.

(3) The Central Government shall, in consonance with the usage and practice followed by it in this behalf, prescribe the classes of persons to whom the classes of passports and travel documents referred to respectively in sub-section (1) and sub-section (2) may be issued under this Act.

5. Applications for passports, travel documents, etc., and orders thereon.—¹[(1) An application for the issue of a passport under this Act for visiting such foreign country or countries (not being a named foreign country) as may be specified in the application may be made to the passport authority and shall be accompanied by ²[such fee as may be prescribed to meet the expenses incurred on special security paper, printing, lamination and other connected miscellaneous services in issuing passports and other travel documents].

Explanation.—In this section, ‘named foreign country’ means such foreign country as the Central Government may, by rules made under this Act, specify in this behalf.

(1-A) An application for the issue of—

- (i) a passport under this Act for visiting a named foreign country; or
- (ii) a travel document under this Act, for visiting such foreign country or countries (including a named foreign country) as may be specified in the application or for an endorsement on the passport or travel document referred to in this section, may be made to the passport authority and shall be accompanied by such fee (if any) not exceeding rupees fifty, as may be prescribed.

1. Subs. by Act 31 of 1978, S. 2, (w.e.f. 18-8-1978). Section 7 of the Amending Act 31 of 1978 in this regard provides

“7. **Transitional provision.**—Where any application for the issue or renewal of a passport is made to the passport authority on or after the date of introduction of the Passports (Amendment) Bill, 1978 in Parliament but before the date on which the Bill as passed by the Houses of Parliament receives the assent of the President, the applicant shall be required as from the commencement of this Act to pay in respect of such application the difference between the fee payable under Section 5 of the principal Act, as amended by this Act and the amount already paid by him towards fee under the said section as it stood immediately before such amendment.”

2. Subs. for “a fee of rupees fifty” by Act 35 of 1993, S. 2 (w.e.f. 1-7-1993).

(1-B) Every application under this section shall be in such form and contain such particulars as may be prescribed.]

(2) On receipt of an application ³[under this section], the passport authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing,—

- (a) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign country or countries specified in the application; or
- (b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign countries specified in the application and refuse to make an endorsement in respect of the other country or countries; or
- (c) refuse to issue the passport or travel document or, as case may be, refuse to make on the passport or travel document any endorsement.

(3) Where the passport authority makes an order under clause (b) or clause (c) of sub-section (2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such copy.

CASE LAW ► Powers of passport authority.—Once the passport is issued by Competent Authority under Section 5(2) of the Passports Act said authority has the power to add, amend, vary or rescind the order issued by it earlier. The authority can make corrections with respect to the date of birth, *Jigar Harish Shah v. Union of India*, (2001) 1 Mah LJ 483.

► **Inquiry.**—Inquiry under Section 5 of the Passports Act, 1967 is a serious inquiry. It cannot be done cursorily or perfunctorily. A passport is not only a travel document but is also an identity document, *Teesta Chatteraj v. Union of India*, (2012) 114 AIC 663 (Del).

► **Application for passport.**—No need to state name of father in application for passport if mother's name is given, *ABC v. State (NCT of Delhi)*, (2015) 10 SCC 1.

► **Renewal of passport.**—There is no law which prevents a wife from using her name adopted after the marriage containing the name and surname of her husband even after a decree of divorce is passed by a Court of competent jurisdiction, *Hema Gadgil v. Passport Officer*, 2015 SCC OnLine Bom 162 : (2015) 3 Mah LJ 688.

6. Refusal of passports, travel documents, etc.—(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of Section 5 on any one or more of the following grounds, and on no other ground, namely:—

3. Ins. by Act 31 of 1978, S. 2 (w.e.f. 18-8-1978).

- (a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;
- (b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;
- (c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country;
- (d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of Section 5 on any one or more of the following grounds, and on no other ground, namely:—

- (a) that the applicant is not a citizen of India;
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;
- (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;
- (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;
- (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;
- (h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;
- (i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.

CASE LAW ▶ Requirements of clause (e) of sub-section (2):—Clause (e) contains three requirements, viz. that the applicant has

- (i) at any time during the period of five years immediately preceding the date of his application,
- (ii) been convicted by a court in India for any offence involving moral turpitude, and
- (iii) sentenced in respect thereof to imprisonment for not less than two years. *JR Parikh v. Director*
(P) Chief Passport Officer, ILR (1970) 2 Del 379.

▶ Applicability of clause (e) of sub-section (2).—It is only when the applicant had committed an offence involving moral turpitude which deserves a sentence of imprisonment for not less than two years that he should be refused to the grant of a passport. It follows that even where the applicant had committed a number of offences involving moral turpitude, but was sentenced for each of the said offences

to imprisonment for less than two years, it is the sentence for each offence that has to be taken into consideration for the purpose of applicability of clause (e) and not the aggregate of the sentences for the various offences, and it is immaterial whether the sentences have been directed to run concurrently or consecutively. *Ibid.*

► **Moral turpitude.**—The term ‘moral turpitude’ has not been defined in the Act. “Moral” according to Pocket Oxford Dictionary means “conforming to or required or justified by consciousness, if not law” and “turpitude” means “baseness”. Thus “cheating”, on the face of it, involves moral turpitude, *JR Parikh v. Director (P) Chief Passport Officer*, ILR (1970) 2 Del 279.

Orders denying passport have to be for just and proper reasons and must fall within the ambit and scope of the provisions of the Act, *Naresh Lalchand Bhagchandani v. Union of India*, (2007) 5 Mah LJ 56.

► **Issuance of passport.**—If details and particulars mentioned in a passport application by an applicant are found to be incorrect or deficient upon a scrutiny of the application and the documents produced in support of it, passport authority is not obliged to issue a passport, merely, because such a case may not be covered by the grounds contained in Section 6(1) or Section 6(2) of the 1967 Act, *Teesta Chatteraj v. Union of India*, (2012) 114 AIC 663 (Del).

7. Duration of passports and travel documents.—A passport or travel document shall, unless revoked earlier, continue in force for such period as may be prescribed and different periods may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class:

Provided that a passport or travel document may be issued for a shorter period than the prescribed period—

- (a) if the person by whom it is required so desires; or
- (b) 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.

⁴[**8. Extension of period of passport.**—Where a passport is issued for a shorter period than the prescribed period under Section 7, such shorter period shall, unless the passport authority for reasons to be recorded in writing otherwise determines, be extendable for a further period (which together with the shorter period shall not exceed the prescribed period) and the provisions of this Act shall apply to such extension as they apply to the issue thereof.]

9. Conditions and forms of passports and travel documents.—The conditions subject to which, and the form in which, a passport or travel document shall be issued or renewed shall be such as may be prescribed:

Provided that different conditions and different forms may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class:

4. Subs. by Act 35 of 1993, S. 3 (w.e.f. 1-7-1993).

Provided further that a passport or travel document may contain in addition to the prescribed conditions such other conditions as the passport authority may, with the previous approval of the Central Government, impose in any particular case.

10. Variation, impounding and revocation of passports and travel documents.—(1) The passport authority may, having regard to the provisions of sub-section (1) of Section 6 or any notification under Section 19, vary or cancel the endorsements on a passport or travel document or may, with the previous approval of the Central Government, vary or cancel the conditions (other than the prescribed conditions) subject to which a passport or travel document has been issued and may, for that purpose, require the holder of a passport or travel document, by notice in writing, to deliver up the passport or travel document to it within such time as may be specified in the notice and the holder shall comply with such notice.

(2) The passport authority may, on the application of the holder of a passport or a travel document, and with the previous approval of the Central Government also vary or cancel the conditions (other than the prescribed conditions) of the passport or travel document.

(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document,—

- (a) if the passport authority is satisfied that the holder of the passport or travel document is in wrongful possession thereof;
- (b) if the passport or travel document was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the passport or travel document or any other person on his behalf;

⁵[Provided that if the holder of such passport obtains another passport, the passport authority shall also impound or cause to be impounded or revoke such other passport.]

- (c) if the passport authority deems it necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public;
- (d) if the holder of the passport or travel document has, at any time after the issue of the passport or travel document, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;
- (e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India;
- (f) if any of the conditions of the passport or travel document has been contravened;
- (g) if the holder of the passport or travel document has failed to comply with a notice under sub-section (1) requiring him to deliver up the same;

- (h) if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made.

(4) The passport authority may also revoke a passport or travel document on the application of the holder thereof.

(5) Where the passport authority makes an order varying or cancelling the endorsements on, or varying the conditions of, a passport or travel document under sub-section (1) or an order impounding or revoking a passport or travel document under sub-section (3), it shall record in writing a brief statement of the reasons for making such order and furnish to the holder of the passport or travel document on demand a copy of the same unless in any case, the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such a copy.

(6) The authority to whom the passport authority is subordinate may, by order in writing, impound or cause to be impounded or revoke a passport or travel document on any ground on which it may be impounded or revoked by the passport authority and the foregoing provisions of this section shall, as far as may be, apply in relation to the impounding or revocation of a passport or travel document by such authority.

(7) A court convicting the holder of a passport or travel document of any offence under this Act or the rules made thereunder may also revoke the passport or travel document:

Provided that if the conviction is set aside on appeal or otherwise the revocation shall become void.

(8) An order of revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) On the revocation of a passport or travel document under this section the holder thereof shall, without delay surrender the passport or travel document, if the same has not already been impounded, to the authority by whom it has been revoked or to such other authority as may be specified in this behalf in the order of revocation.

CASE LAW ► Impounding meaning of.—A seizure is made at a particular moment of property which was not earlier possessed, whereas impounding means to keep in custody of law and to take legal or formal possession of property after it has been seized. Documents seized by CBI under Section 104 CrPC does not amount to impounding of documents as special Act i.e. Passports Act which exists for the impounding of a passport, *Suresh Nanda v. CBI*, (2008) 3 SCC 674 : (2008) 2 SCC (Cri) 121.

► **Impounding of passport "in the interest of general public".**—Certain guidelines are provided by the words "in the interests of general public" and the power conferred on the passport authority to impound a passport cannot be said to be unguided or unfettered. Moreover, the exercise of the power is not made to depend on the subjective opinion of the authority but the authority is required to record in writing a brief statement of reasons and to supply a copy of such statement to the person affected. It is true that when the order is made by the Central Government there is no appeal against it. But then in such a case the power is exercised by the Central Government itself and it can safely be assumed that the Central Government will exercise the power in a reasonable and responsible manner. When power is vested in a high authority the abuse of it cannot be lightly assumed and in any event if there is abuse of power, the arms of the court are long enough to reach it and strike it down. The power conferred on the passport authority to impound the passport under Section 10(3)(c) cannot, therefore, be regarded as discriminatory and it does not fall foul of Article 14. But every exercise of such power has to be tested in order to determine whether it is arbitrary or within the guidelines provided by Section 10(3)(c). *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

Section 10(3)(c) enables the passport authority to impound or revoke a passport if the passport authority deems it necessary so to do, inter alia, in the interests of general public. He is required to record in writing a brief statement of the reasons for making such order and to furnish a copy of the order on demand unless in any case he thinks for reasons mentioned in sub-section (5) that a copy should not be furnished. Except against an order passed by the Central Government the aggrieved person has a right of appeal and the appellate authority is required to give a reasonable opportunity to the aggrieved party of representing his case. The words "in the interests of general public" are of a wide connotation but the authority, in construing the facts of the case, should determine whether in the interests of public the passport will have to be impounded. Whether the reasons given have a nexus to the interests of general public would depend upon the facts of each case. The plea that because of the vagueness of the words "interests of general public" in the order, the order itself is unsustainable, cannot be accepted. *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

An order impounding a passport can be made by the passport authority only if it is actually in the interests of the general public to do so and it is not enough that the interests of general public may be likely to be served in future by the making of the order. But in the present case, it was not merely on the future likelihood of the interests of the general public being advanced that the impugned order was made. It was made because she was likely to leave India and that might frustrate or impede to some extent the enquiries which are being conducted by the Commission of Inquiry. *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

When an order is made under Section 10(3)(c) which is in conformity with the terms of that provision it would be in the interests of the general public and even if it restricts the freedom to carry on a profession it would be protected by Article 19(6). If it is made in the interests of sovereignty and integrity of India or in the interests of security of India or in the interests of friendly relations of India with any foreign country, it would satisfy the requirements of Article 19(2). But if it is made for any other interests of the general public save the interests of public order, decency or morality, it would not enjoy the protection of Article 19(2). There can be no doubt that the interests of public order, decency or morality are interests of general public and they would be covered by Section 10(3)(c). But the expression "interests of general public" is a much wider expression and, therefore, in order that an order made under Section 10(3)(c) may not fall foul of Article 19(1)(a) it is necessary that in relation to such an order the expression "interests of general public" must be read down so as to be limited to interests of public order, decency or morality. If an order made under Section 10(3)

(c) restricts freedom of speech and expression, it must be made not in the interests of general public in a wider sense but in the interests of public order, decency or morality apart from the other three categories, namely, interests of sovereignty and integrity of India, security of India and friendly relations of India with any foreign country. If the order cannot be shown to have been made in the interests of public order, decency or morality, it would not only contravene Article 19(1)(a), but would also be outside the authority conferred by Section 10(3)(c). *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

► **Impounding of passport: Recording of reasons.**—Sub-section (5) requires the passport authority impounding the passport to record in writing reasons for making such order.

The necessity of giving reasons has obviously been introduced in the sub-section so that it may act as a healthy check against abuse or misuse of power. If the reasons given are not relevant and there is no nexus between the reasons and the grounds on which the passport was impounded, it would be open to the holder of the passport to challenge the order of impounding in a court of law and if the court is satisfied that the reasons are extraneous or irrelevant, the court would strike down the order. This liability to be exposed to judicial scrutiny would by itself act as a safeguard against improper or mala fide exercise of the power. The court would, therefore, be very slow to accept without close scrutiny the claim of the passport authority that it would not be in the interests of general public to disclose the reasons. The passport authority would have to satisfy the court by placing proper material that the giving of reasons would be clearly and indubitably against the interests of the general public and if the court is not so satisfied, it may require the passport authority to disclose the reasons subject to any valid and lawful claim for privilege which may be set up on behalf of the Government. *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

► **Impounding of passport—Right of hearing.**—The extraordinary step for impounding or revoking a passport can be taken by a passport authority when he apprehends that the holder may leave the country and as such prompt action is essential. But before any final order is passed, even in such a case, the rule of audi alteram partem would apply and the holder will have to be heard. In the present case, the petitioner has a right to be heard before a final order was passed and in this view the question of the vires of Section 10(3)(c) does not arise. *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

Any procedure which permits impairment of the constitutional right to go abroad without giving a reasonable opportunity to show cause cannot but be condemned as unfair and unjust and hence there is, in the present case, clear infringement of the requirement of Article 21. *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

The rules of natural justice would, therefore, be applicable in the exercise of the power of impounding a passport. *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

The passport authority may impound the passport without giving any prior opportunity to the person concerned but as soon as the order impounding the passport is made, an opportunity of hearing remedial in aim should be given to him so that he may present his case and controvert that of the authority and point out why his passport should not be impounded and the order impounding should be recalled. A fair opportunity of being heard following immediately upon the order impounding the passport would satisfy the mandate of natural justice and a provision requiring giving of such an opportunity should be read by implication into the Act. And if so read the procedure prescribed by the Act would be right, fair and just and would not suffer from the vice of arbitrariness or unreasonableness. Therefore, the procedure established by the Act for impounding the passport is in conformity with the requirements of Article 21 and does not fall foul of that Article. *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

Impounding of Passport entails civil consequences hence authorities are duty bound to give opportunity of hearing to the person concerned. Even Central Government can retain passport for four weeks only under Section 10-A and thereafter it can only be retained by the Passport Authority under Section 10(3)(e), *Suresh Nanda v. CBI*, (2008) 3 SCC 674 : (2008) 2 SCC (Cri) 121.

► **Right to go abroad.**—The right to go abroad is clearly not a guaranteed right under any clause of Article 19(1) and Section 10(3)(c) which authorises imposition of restrictions on the right to go abroad by impounding of passport cannot be held to be void as offending Article 19(1)(a) or (g), as its direct and inevitable impact is on the right to go abroad and not on the right of free speech and expression or the right to carry on trade, business, profession or calling. *Meneka Gandhi v. Union of India*, (1978) 1 SCC 248.

► **Powers of passport authority.**—No doubt a discretion is vested with the passport authority in terms of Section 10 of the Passports Act to impound and/or return of passport or travel documents of a person. It could also ask the holder of the passport to deliver the passport and travel documents after serving upon him a notice as required under the provisions of Section 10(1) of the Act. The power of cancelling and impounding of the passport are also vested, if the holder of the passport was covered under the provisions of Section 10(3) of the Act. It is significant to note at this stage that the power vested in the passport authority under Section 10(1) of the Act, has to be exercised while keeping the due regard to the provisions of Section 6(1) of the Act, *Naresh Lalchand Bhagchandani v. Union of India*, (2007) 5 Mah LJ 56.

► **Pendency of criminal case.**—Pendency of a criminal case against the holder of a passport would not automatically result in impounding of his passport. The mere fact that certain conditions specified in Section 10(3) of the Act on the basis of which a passport can be impounded subsists in a given case cannot by itself result in impounding of a passport automatically. The passport authority has to decide, upon exercising his discretion, whether pendency of such criminal case should result in impounding of the passport or not, *Kamal Kumar Narottam Dash Parekh v. Govt. of India (Ministry of External Affairs)*, (2010) 3 ICC 246 (Cal).

► **Suspension of sentence.**—Suspension of sentence does not erase conviction which is on record. Thus, passport of person whose sentence has been suspended can be impounded under Section 10(3)(d), *M. Natarajan v. Regl. Passport Officer*, (2012) 4 CTC 709 (Mad).

► **Remedies.**—In case of impounding of passport, resort should be had to Section 10(3)(e) of Passports Act which specifically deals with impounding of passport and not Section 104 CrPC which allows a court to impound document or thing produced before it. Passports Act is a special Act, it would override the provisions of CrPC for the purposes of impounding of passport.

⁶[10-A. Suspension of passports or travel documents in certain cases.—(1) Withstanding prejudice to the generality of the provisions contained in Section 10, if the Central Government or any designated officer is satisfied that the passport or travel document is likely to be impounded or caused to be impounded or revoked under clause (c) of sub-section (3) of Section 10 and it is necessary in the public interest so to do, it or he may,—

- (a) by order, suspend, with immediate effect, any passport or travel document;
- (b) pass such other appropriate order which may have the effect, rendering any passport or travel document invalid,

6. Ins. by Act 17 of 2002, S. 2 (w.r.e.f. 23-10-2001).

for a period not exceeding four weeks:

Provided that the Central Government or the designated officer may, if it or he considers appropriate, extend, by order and for reasons to be recorded in writing, the said period of four weeks till the proceedings relating to variation, impounding or revocation of passport or travel document under Section 10 are concluded.

Provided further that every holder of the passport or travel document, in respect of whom an order under clause (a) or clause (b) of this sub-section had been passed, shall be given an opportunity of being heard within a period of not later than eight weeks reckoned from the date of passing of such order and thereupon the Central Government may, if necessary, by order in writing, modify or revoke the order passed under this sub-section.

(2) The designated officer shall immediately communicate the orders passed under sub-section (1), to the concerned authority at an airport or any other point of embarkation or immigration, and to the passport authority.

(3) Every authority referred to in sub-section (2) shall, immediately on receipt of the order passed under sub-section (1), give effect to such order.

10-B. Validation of intimation.—Every intimation given by the Central Government or the designated officer, before the commencement of the Passports (Amendment) Act, 2002, to any immigration authority at an airport or any other point of embarkation or immigration, restricting or in any manner prohibiting the departure from India of any holder of the passport or travel document under sub-section (3) of Section 10, shall be deemed to be an order under sub-section (1) of Section 10-A and such order shall continue to be in force for a period of three months from the date of commencement of the Passports (Amendment) Act, 2002, or the date of giving such intimation, whichever is later.

Explanation.—For the purposes of Sections 10-A and 10-B, the expression “designated officer” means such officer or authority designated, by order in writing, as such by the Central Government.]

11. Appeals.—(1) Any person aggrieved by an order of the passport authority under clause (b) or clause (c) of sub-section (2) of Section 5 or clause (b) of the proviso to Section 7 or sub-section (1), or sub-section (3) of Section 10 or by an order under sub-section (6) of Section 10 of the authority to whom the passport authority is subordinate, may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963 (36 of 1963), with respect to the computation of the periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and ⁷[by such fee as may be prescribed for meeting the expenses that may be incurred in calling for relevant records and for connected services.]

(5) In disposing of an appeal, the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of representing his case.

(6) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

12. Offences and penalties.—(1) Whoever—

- (a) contravenes the provisions of Section 3; or
- (b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document; or
- (c) fails to produce for inspection his passport or travel document (whether issued under this Act or not) when called upon to do so by the prescribed authority; or
- (d) knowingly uses a passport or travel document issued to another person; or
- (e) knowingly allows another person to use a passport or travel document issued to him,

shall be punishable with imprisonment for a term which may extend to ⁸[two years or with fine which may extend to five thousand rupees] or with both.

⁹[(1-A) Whoever, not being a citizen of India,—

- (a) makes an application for a passport or obtains a passport by suppressing information about his nationality, or
- (b) holds a forged passport or any travel document,

shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees.]

7. Subs. by Act 35 of 1993, S. 5 (w.e.f. 1-7-1993).

8. Subs. by Act 35 of 1993, S. 6 (w.e.f. 1-7-1993).

9. Ins. by Act 35 of 1993, S. 6 (w.e.f. 1-7-1993).

(2) Whoever abets any offence punishable under ¹⁰[sub-section (1) or sub-section (1-A)] shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided in that sub-section for that offence.

(3) Whoever contravenes any condition of a passport or travel document or any provision of this Act or any rule made thereunder for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(4) Whoever, having been convicted of an offence under this Act, is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence.

CASE LAW ▶ Citizenship not a guaranteed right.—It may prima facie sound somewhat surprising, but it is nevertheless true, that though the citizens of India are guaranteed the fundamental rights specified in Article 19 of the Constitution, the status of citizenship on which the existence or continuance of the said rights rests is itself not one of the fundamental rights guaranteed to anyone. *Izhar Ahmad Khan v. Union of India*, 1962 Supp (3) SCR 235, 269 : AIR 1962 SC 1052, 1067 : 1962 (2) Cri LJ 215.

▶ **Citizenship and Nationality.**—It is not possible to be citizen of one country and national of another. "All citizens are nationals of a particular State but all nationals may not be citizens of the State." It would follow from that that an Indian citizen cannot be a national of another State. *Mohamed Reza Debstani v. State of Bombay*, (1966) 3 SCR 441, 443 : AIR 1966 SC 1436.

Entering the territory of India with a Pakistani passport obtained in a pseudo name, does not constitute an offence under Section 12(1) read with Section 3, *Akmal Ahmad v. State of Delhi*, (1999) 3 SCC 337 : 1999 SCC (Cri) 425.

Under Section 12(1)(b) of the Passports Act, imposition of penalty is consequent only to a person knowingly furnishing false information, *Nisiman v. Union of India*, (2010) 92 AIC 295 (Del).

For punishment under Section 12 it has to be established that the accused contravened the provisions under Section 3 or knowingly furnished false information or suppressed material information for obtaining passport or used the passport issued to another. When the case rests upon circumstantial evidence, unless the principle that the evidence must be unbroken chain of circumstances leading to irresistible conclusion that accused committed the crime, the conviction cannot follow, *Public Prosecutor, High Court of A.P. v. G. Rajendran*, (2004) 1 AP LJ 55 (SN).

▶ **Failure to exhibit FSL report.**—When other evidence is reliable and crime committed by accused is established, absence of FSL report by itself does not absolve liability of accused, *Hema v. State*, (2013) 10 SCC 192 : (2013) 4 SCC (Cri) 755.

▶ **Recovery of incriminating material.**—When Fabricated seals of Police Department were recovered at the instance of co-accused case of conspiracy, forgery and cheating established against co-conspirators, *Hema v. State*, (2013) 10 SCC 192 : (2013) 4 SCC (Cri) 755.

10. Subs. by Act 35 of 1993, S. 6 (w.e.f. 1-7-1993).

13. Power to arrest.—(1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any ¹¹[officer of police or emigration officer] not below the rank of a sub-inspector may arrest without warrant any person against whom a reasonable suspicion exists that he has committed any offence punishable under Section 12 and shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or to the officer in charge of the nearest police station and the provisions of ¹²[Section 57 of the Code of Criminal Procedure, 1973 (2 of 1974)], shall, so far as may be, apply in the case of any such arrest.

14. Power of search and seizure.—(1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any ¹³[officer of police or emigration officer] not below the rank of a sub-inspector may search any place and seize any passport or travel document from any person against whom a reasonable suspicion exists that he has committed any offence punishable under Section 12.

(2) The provisions of the ¹⁴[Code of Criminal Procedure, 1973 (2 of 1974)], relating to searches and seizures shall, so far as may be, apply to searches and seizures under this section.

15. Previous sanction of Central Government necessary.—No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorised by that Government by order in writing in this behalf.

CASE LAW ► Overriding effect.—Special law i.e. Passports Act, 1967 shall prevail over the general law i.e. IPC, cannot run concurrently. If previous sanction from Central Government for institution of any prosecution against any person in respect of any offence under the 1967 Act was not sought for in compliance with Section 15 of the 1967 Act then, proceeding is void ab initio for want of appropriate sanction, *Malcolm War Macleod v. State of W.B.*, (2011) 3 CHN 124 (Cal).

16. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done under this Act.

17. Passports and travel documents to be property of Central Government.—A passport or travel document issued under this Act shall at all times remain the property of the Central Government.

11. Subs. for "officer of police" by Act 35 of 1993, S. 7 (w.e.f. 1-7-1993).

12. Subs. by Act 31 of 1978, S. 3 (w.e.f. 18-8-1978).

13. Subs. for "officer of police" by Act 35 of 1993, S. 7 (w.e.f. 1-7-1993).

14. Subs. by Act 31 of 1978, S. 4 (w.e.f. 18-8-1978).

18. Passports, etc., not to be issued to persons who cannot emigrate under Act 7 of 1922.—¹⁵[* * *].

19. Passports and travel documents to be invalid for travel to certain countries.—Upon the issue of a notification by the Central Government that a foreign country is—

- (a) a country which is committing external aggression against India; or
- (b) a country assisting the country committing external aggression against India; or
- (c) a country where armed hostilities are in progress; or
- (d) a country to which travel must be restricted in the public interest because such travel would seriously impair the conduct of foreign affairs of the Government of India,

a passport or travel document for travel through or visiting such country shall cease to be valid for such travel or visit unless in any case a special endorsement in that behalf is made in the prescribed form by the prescribed authority.

20. Issue of passports and travel documents to persons who are not citizens of India.—Notwithstanding anything contained in the foregoing provisions relating to issue of a passport or travel document, the Central Government may issue, or cause to be issued, a passport or travel document to a person who is not a citizen of India if that Government is of the opinion that it is necessary so to do in the public interest.

21. Power to delegate.—The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under clause (d) of sub-section (1) of Section 6 or the power under clause (i) of sub-section (2) of that section or the power under Section 24, may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed—

- (a) by such officer or authority subordinate to the Central Government; or
- (b) by any State Government or by any officer or authority subordinate to such Government; or
- (c) in any foreign country in which there is no diplomatic mission of India, by such foreign Consular Officer,

as may be specified in the notification.

15. Omitted by Act 35 of 1993, S. 8 (w.e.f. 1-7-1993). Prior to omission it read as:

“18. *Passports etc., not to be issued to persons who cannot emigrate under Act 7 of 1922.*—Notwithstanding anything contained in this Act, where a person has applied for a passport, or an endorsement on his passport, for visiting a foreign country for the purpose of emigrating to such country, the passport shall not be issued to such person or, as the case may be, the endorsement shall not be made on his passport, for visiting such country if he is not permitted to emigrate, or is prohibited from emigrating, to such country by or under the provisions of the Emigration Act, 1922.

Explanation.—For the purposes of this section, “emigrate” and “emigration” shall have the meanings assigned to those expressions under clause (c) of sub-section (1) of Section 2 of the Emigration Act, 1922 (7 of 1922).”

22. Power to exempt.—Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—

- (a) exempt any person or class of persons from the operation of all or any of the provisions of this Act or the rules made thereunder; and
- (b) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions.

23. Act to be in addition to certain enactments.—The provisions of this Act shall be in addition to and not in derogation of the provisions of the Passport (Entry into India) Act, 1920 (34 of 1920), ¹⁶[the Emigration Act, 1983 (31 of 1983)], the Registration of Foreigners Act, 1939 (16 of 1939), the Foreigners Act, 1946 (31 of 1946), ¹⁷[* * *], the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947 (16 of 1947), the Foreigners Law (Application and Amendment) Act, 1962 (42 of 1962), ¹⁸[the Foreign Exchange Regulation Act, 1973 (46 of 1973)], and other enactments relating to foreigners and foreign exchange.

24. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the appointment, jurisdiction, control and functions of passport authorities;
 - (b) the classes of persons to whom passports and travel documents referred to respectively in sub-section (1) and sub-section (2) of Section 4 may be issued;
 - (c) the form and particulars of application for the issue or renewal of a passport or travel document or for endorsement on a passport or travel document and where the application is for the renewal, the time within which it shall be made;
 - (d) the period for which passports and travel documents shall continue in force;
 - (e) the form in which and the conditions subject to which the different classes of passports and travel documents may be issued, renewed or varied;
- ¹⁹[(ee) specifying the foreign country for the purposes of the Explanation to sub-section (1) of Section 5;]

16. Subs. for "the Emigration Act, 1922 (7 of 1922)" by Act 35 of 1993, S. 9 (w.e.f. 1-7-1993).

17. The words "FERA 1947" omitted by Act 31 of 1978, S. 5 (w.e.f. 18-8-1978).

18. Ins. by Act 31 of 1978, S. 5 (w.e.f. 18-8-1978).

19. Ins. by Act 31 of 1978, S. 6 (w.e.f. 18-8-1978).

- (f) the fees payable in respect of ²⁰[any application for the issue of a passport under sub-section (1) of Section 5 or issue of a passport] ²¹[for visiting a foreign country referred to in sub-section (1-A) of Section 5] or travel document or for varying any endorsement or making a fresh endorsement on a passport or a travel document and the fees payable in respect of any appeal under this Act;
- (g) the appointment of appellate authorities under sub-section (1) of Section 11, the jurisdiction of, and the procedure which may be followed by, such appellate authorities;
- (h) the services (including the issue of a duplicate passport or travel document in lieu of a passport or travel document lost, damaged or destroyed) which may be rendered in relation to a passport or travel document and the fees therefor;
- (i) any other matter which is to be or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the proper implementation of the Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or ²²[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

25. Change of short title of Act 34 of 1920.—In the Indian Passport Act, 1920, in sub-section (1) of Section 1, for the words and figures “the Indian Passport Act, 1920”, the words, brackets and figures “the Passport (Entry into India) Act, 1920” shall be substituted.

26. Savings as to certain passports and applications.—²³[* * *]

20. Subs. by Act 35 of 1993, S. 10 (w.e.f. 1-7-1993).

21. Subs. by Act 31 of 1978, S. 6 (w.e.f. 18-8-1978).

22. Subs. by Act 31 of 1978, S. 6 (w.e.f. 18-8-1978).

23. Omitted by Act 35 of 1993, S. 8 (w.e.f. 1-7-1993). Prior to omission it read as:

“26. *Savings as to certain passports and applications.*—(1) Every passport and every travel document issued by or under the authority of the Central Government before the commencement of the Passports Ordinance, 1967 (4 of 1967) and in force immediately before such commencement shall be deemed to have been issued under this Act and shall, subject to the provisions of this Act, continue in force—

- (a) for the unexpired portion of the period for which such passport or travel document had been issued; or
- (b) for a period of five years from such commencement; whichever is shorter.

(2) All applications for the issue or renewal of, the making of an endorsement on, or the performance of any service in relation to, a passport or travel document made to the Central Government or to any officer or authority appointed by that Government in that behalf before the 5th May, 1967 and pending

27. Repeal and saving.—(1) The Passports Ordinance, 1967 (4 of 1967), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purporting to have been done or taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 5th day of May, 1967.

NOTIFICATIONS

(1)

Ministry of External Affairs, Noti. No. G.S.R. 570(E), dated August 25, 1993, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th August, 1993, pp. 2-3, Sl. No. 289 [No. VI/401/37/79]

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. G.S.R. 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 sub-section (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 specified 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 of validity of the passport, the passport shall be issued for one year; or
 - (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.

(2)

*Ministry of External Affairs, Noti. No. G.S.R. 34(E), dated January 12, 2000,
published in the Gazette of India, Extra., Part II, Section 3(i),
dated 12th January, 2000, p. 1, No. 33 [F. No. VI/401/53/99]*

Whereas the Central Government is of the opinion that it is expedient in the public interest to do so as specified in this notification. Now, therefore, in exercise of the powers conferred by clause (a) of Section 22 of the Passport Act, 1967 (15 of 1967), the Central Government hereby exempts all Government servants against whom criminal charges are pending in any court in India for acts done or omitted to be done by them in the discharge of their official duties from the operation of clause (f) of sub-section (2) of Section 6 and clause (e) of sub-section (3) of Section 10 of the said Act. A certificate from their department conveying their 'No Objection' to the issue of passport to such officials would be required as in all cases of Government servants.

(3)

*Ministry of External Affairs, Noti. No. G.S.R. 655(E), dated September 1, 2011,
published in the Gazette of India, Extra., Part II, Section 3(i),
dated 1st September, 2011, p. 2, No. 487*

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, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), vide number G.S.R. 472(E), dated the 22nd May, 2000, the Central Government, being of the opinion that it is necessary and expedient in the public interest so to do, hereby exempts the following persons from the operation of the provisions of Section 5 of the said Act, read with Rule 8 of the Passports Rules, 1980, insofar as such provisions relate to the payment of fees for issue or reissue of an ordinary thirty-six pages passport to be valid for ten years or five years, as the case may be, and for rendering of miscellaneous services on such a passport, namely—

- (i) regular employees of the Central Passport Organisation and their spouses and children up to the age of fifteen years;
- (ii) retired employees of the Central Passport Organisation and their spouses; and
- (iii) employees who come on deputation to the Central Passport Organisation and their spouses and children up to the age of fifteen years, during their deputation to the Central Passport Organisation:

Provided that such exemption of fees for issue or reissue of a passport and for rendering of any miscellaneous services on such a passport is not allowed to the person, who is—

- (i) undergoing departmental proceedings for dereliction of duty or misconduct; or
- (ii) compulsorily retired from the services or terminated from the services; or
- (iii) awarded any major penalty during Departmental Inquiry proceedings; or
- (iv) facing criminal proceedings on the allegations of corruption, criminal misconduct, misappropriation of public funds; or
- (v) convicted of any offence by any court of India.

(4)

Ministry of External Affairs, Noti. No. G.S.R. 723(E), dated July 22, 2016, published in the Gazette of India, Extra., Part II, Section 3(i), dated 26th July, 2016, p. 2, No. 513

In exercise of the powers conferred by Section 21 of the **Passports Act, 1967** (15 of 1967), the Central Government hereby directs that the power to issue passports to persons who are not citizens of India under Section 20 of the said Act, in respect of persons of Indian origin residing in the Republic of the Union of Myanmar and holding Foreigners Registration Certificates issued by the Government of the Republic of the Union of Myanmar, may be exercised by the Embassy of India, Yangon, subject to the condition that passports in such cases may be granted by the said Embassy for a period of one year at a time and endorsed for the Republic of the Union of Myanmar only.

2. This notification shall come into force on the 1st day of July, 2016.

(5)

Ministry of External Affairs, Noti. No. G.S.R. 435(E), dated May 4, 2017, published in the Gazette of India, Extra., Part II, Section 3(i), dated 4th May, 2017, p. 2, No. 345

In exercise of the powers conferred by clause (a) of Section 22 of the **Passports Act, 1967** (15 of 1967), the Central Government, being of the opinion that it is necessary and expedient in the public interest so to do, hereby exempts Indians living in Saudi Arabia having no travel documents from the operation of the provisions of Section 5 of the said Act, read with Rule 8 of the Passports Rules, 1980, in so far as such provisions relate to the payment of fees for issue of emergency Certificate for one time travel to India subject to the following conditions, namely—

- (i) waiver of emergency Certificate fees shall be applicable only for those emergency Certificates applications made during currency of grace period announced by the Saudi Arabia Government;
- (ii) all applicants desirous to avail this waiver of emergency Certificate fee shall have to submit an additional application indicating their wish to avail the facility;

- (iii) save as otherwise provided in this notification, while issuing emergency Certificate during the operation of the above said facility, all the relevant provisions of Passports Act, Passport Rules and passport Manual shall apply.
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