IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

FRIDAY, THE 14TH DAY OF OCTOBER 2022 / 22ND ASWINA, 1944

WP(C) NO. 31073 OF 2022

PETITIONER/S:

K.T.RAJENDRAN
AGED 50 YEARS
S/O. ACHUTHAN NAIR 11E, ARTECH DEEPAM
APARTMENTS, ANAYARA, TRIVANDRUM - 695029

BY ADVS.
P.A.MOHAMMED SHAH
RENOY VINCENT
ARUN ROY
HELEN P.A.
SHAHIR SHOWKATH ALI

RESPONDENT/S:

1. DIRECTOR GENERAL
BUREAU OF CIVIL AVIATION SECURITY, 'A' WING,
JANPATH BHAWAN, JANPATH, NEW DELHI - 110001.
2. REGIONAL DIRECTOR,
BUREAU OF CIVIL AVIATION SECURITY, NEAR
DOMESTIC TERMINAL, SANGHUMUGHAM, TRIVANDRUM -
695008.
3. RAJIV GANDHI ACADEMY FOR AVIATION TECHNOLOGY,
TRIVANDRUM INTERNATIONAL AIRPORT, TRIVANDRUM -
695007, REPRESENTED BY ITS CHIEF SECURITY
OFFICER.
4. STATION HOUSE OFFICER,
VALIYATHURA POLICE STATION, THIRUVANANTHAPURAM
- 695008

BY ADV Girish Kumar V

OTHER PRESENT:

SRI. V.GIRISH KUMAR - CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 14th day of October, 2022

The petitioner is the Chief Flying Instructor of Rajiv Gandhi Academy for Aviation Technology. He has 28 years of experience as a Pilot, out which 10 years is as Chief Flying Instructor. According to the petitioner, through out of his career, both as Pilot and Flying Instructor, there was no allegation regarding his character and conduct. The petitioner is now placed under a predicament, since the Airport Entry Permit issued to him had to be surrendered pursuant to Exts.P7 and P8 communication from the Bureau of Civil Aviation Security. The reason for issuing such direction, is the registration of a crime against the petitioner alleging commission of offences under Sections 354, 506 and 509 of the Indian Penal Code, at the instance of a lady

student of the Aviation academy. She alleged that the petitioner had misbehaved with her during training on 01.01.2022. The complaint was submitted on 15.03.2022. On coming to know about registration of the crime, the petitioner approached this Court and obtained anticipatory bail as per Ext.P6 order. The complaint had also given rise to an enquiry by the Internal Complaints Committee (ICC) of the Aviation Academy. The ICC, after considering the statements of 17 witnesses, including the alleged victim, exonerated the petitioner. Despite these favourable factors, registration of the crime has resulted in the petitioner's Airport Entry Permit being recalled. Hence, this writ petition seeking the following reliefs;

> *"(i) To declare that the action on the part of the Respondent Nos. 1 and 2 in directing the Petitioner to surrender his Airport Entry Permit in view of Exhibit P2 FIR registered against him is arbitrary,*

patently illegal, unreasonable, irrational, grossly tainted with malafides and violative of the fundamental rights and constitutional rights guaranteed to the Petitioner under Articles 14, 19 and 21 of the Constitution of India; and

(ii) To issue a writ of certiorari or any other appropriate writ, direction or order quashing Exhibits P7 and P8 communications issued by the Respondent No.2; and

(iii) To issue a writ of mandamus or any other appropriate writ, direction or order directing the Respondents to forthwith return the Airport Entry Permit surrendered by the Petitioner pursuant to Exhibits P7 and P8 communications issued by the Respondent No.2; and

iv) Pass such any other order, direction or reliefs as this Hon'ble Court may deem fit in the interest of justice, equity and good conscience.

v) Dispense with filing of the translation of vernacular documents."

2. Adv.P.A.Mohammed Shah, learned Counsel for the petitioner, contended that the very functioning of a prestigious flying school has

come to a standstill due to surrender of the petitioner's Airport Entry Permit. It is submitted that the complaint by the lady student was motivated by the petitioner's refusal to oblige to her request for permission to go on solo flying. The petitioner, as an instructor, had found the student to be lacking in requisite mental fitness for undertaking solo flying. It is contended that the falsity of allegation is evident from the fact that the complaint was lodged only after two months of the alleged incident. Learned Counsel also placed reliance on the statements given by the witnesses examined before the Internal Complaints Committee, including student who staying in the same room as that of the complainant.

3. It is pointed out that the petitioner's Airport Entry Permit was directed to be surrendered based on paragraph 11.1.0 of the Airport Entry Permit Guidelines, 2019. In this

regard, reference is made to paragraph 11.9.1 of the guidelines which reads as under;

> *"11.9.1 Certain serious crimes, specifically possession and use of hard drugs, trafficking in hard and soft drugs, trafficking in weapons or the illegal possession of weapons, assault, extortion, acts endangering public safety including acts of unlawful interference against civil aviation, sexual offences or membership of a criminal organization (in exceptional circumstances, DG, BCAS may determine that such a person has been fully rehabilitated and, therefore, no longer constitutes a risk)."*

It is submitted that the above clause provides for withdrawal of the Airport Entry Permit is guilty of serious crimes mentioned therein. In the petitioner's case, the reason for withdrawal of permit is his alleged involvement in a 'sexual offence'. In this regard, reference is made to Section 375 of the IPC which is prefixed with the words 'sexual offence. It is pointed out that caption 'sexual offence' was introduced by Act

43 of 1983. Prior to which the term used was 'of rape'. It is contended that the offences under Sections 354, 506 and 509 IPC, alleged against the petitioner do not fall within the ambit of 'sexual offence', as per the Indian Penal Code, since the terminology 'sexual offences' has been used only for the offence under Section 375 and its corollaries.

4. Learned CGC submitted that as far as respondents 1 and 2 are concerned, they are bound to withdraw the Airport Entry Permit on information regarding Clause 11.9.1 is brought to their notice.

5. Indisputably, a crime has been registered against the petitioner alleging commission of offences under Sections 354, 506 and 509. In this regard, I find *prima facie* substance in the contention urged by the petitioner that respondents 1 and 2 are bound to consider the impact of Ext.P6 bail order and the

finding of the Internal Complaints Committee, the concluding portion of which reads as under;

> *"Considering all these statements and facts, the Committee came to the conclusion that the complaints raised by Miss. Keerthana against Capt. K.T Rajendran, CFI are baseless, false and made with ulterior motive to harass CFI by implicating him with a false allegation. The Committee recommends that she may be given with proper counselling and guidance for making her a good pilot. The Committee also came to know that Keerthana has filed a criminal complaint against Capt KT Rajendran in Valiyathura Police Station and FIR has been registered. Let the law take its own course."*

6. There is also merit in the contention that going by the allegations and the term 'sexual offence' is given as a caption to only Section 375 and related offences in the Indian Penal Code, the allegation raised against the petitioner may not fall within the ambit of sexual offence. In such circumstances, rather than withdrawing the Airport Entry Permit based only on the information regarding the

registration of a crime, respondents 1 and 2 were bound to take a decision after considering these relevant aspects.

For the aforementioned reasons, Exts.P7 and P8 are set aside and the second respondent is directed to take a fresh decision in the matter, based on the observations in this judgment. For effectuating such consideration, the petitioner shall make available copies of the bail orders and the findings of the Internal Complaints Committee to the second respondent. A fresh decision on the petitioner's eligibility for Airport Entry Permit shall be taken within one week of receipt of a copy of this judgment.

Sd/-

V.G.ARUN
JUDGE

Scl/14.10.22

APPENDIX OF WP(C) 31073/2022

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF THE AIRPORT ENTRY PERMIT NO. KEL0036409 ISSUED BY THE RESPONDENT NO.1
Exhibit P2	THE TRUE COPY OF THE FIR NO.247/2022 OF VALIYATHURA POLICE STATION DATED 15.03.2022
Exhibit P3	THE TRUE COPY OF THE RELEVANT PAGES FROM THE MS. KEERTHANA'S FLYING TRAINEE'S PROGRESS RECORD
Exhibit P4	THE TRUE COPY OF THE ORDER PASSED IN B.A. NO. 2283/2022 DATED 18.03.2022
Exhibit P5	THE TRUE COPY OF THE REPORT PREPARED BY THE INTERNAL COMPLAINTS COMMITTEE OF THE RESPONDENT NO.3
Exhibit P6	THE TRUE COPY OF THE JUDGMENT PASSED IN B.A. NO.2283/2022 DATED 08.06.2022
Exhibit P7	THE TRUE COPY OF THE LETTER ISSUED BY THE RESPONDENT NO.2 TO THE CHIEF SECURITY OFFICER OF RESPONDENT NO.3 DATED 12.09.2022
Exhibit P8	THE TRUE COPY OF THE LETTER ISSUED BY THE RESPONDENT NO.2 TO THE CHIEF SECURITY OFFICER OF RESPONDENT NO.3 DATED 13.09.2022
Exhibit P9	THE TRUE COPY OF THE ACKNOWLEDGMENT LETTER ISSUED TO THE PETITIONER BY THE RESPONDENT NO.3 DATED 14.09.2022
Exhibit P10	THE TRUE COPY OF THE LETTER ISSUED TO THE RESPONDENT NO.2 BY THE RESPONDENT NO.3 DATED 14.09.2022