

MOST IMMEDIATE/OUT TODAY

No. VI/441/1/16/2016 (Vol.III)

Government of India

Ministry of External affairs

CPV Division

Patiala House Annexe, New Delhi,
The 17th March, 2017

OFFICE MEMORANDUM

Subject: Grant of passport facilities to the Tibetan Refugees born in India between 26/01/1950 to 01/07/1987, who have been declared as the Indian Citizens by birth under Section 3 (1)(a) of the Citizenship Act, 1955 by the High Court of Delhi vide its judgment dated 22/09/2016 in the W.P. No. 4275/2016 of Lobsang Wangyal Vs Union of India & others-reg.

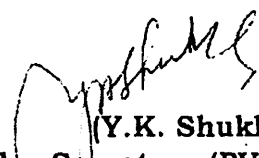
It may be mentioned that the High Court of Delhi vide its judgment dated 22/09/2016 in the W.P. No. 4275/2016 of Lobsang Wangyal Vs Union of India and two other WPs, has not only declared the Tibetan Refugees (TRs) born in India between 26/01/1950 to 01/07/1987, as the Indian citizens by birth under Section 3(1)(a) of the Citizenship Act, 1955 but also quashed the executive instructions dated 26/08/2011 of the Ministry of Home Affairs and the minutes of the meeting dated 30/03/2010, restraining TR applicants to declare themselves as the Indian citizens by birth under the relevant section(s) of the said Act. The High Court besides declaring all such TR petitioners as the Indian citizens by birth also directed this Ministry/Passport Issuing Authorities to process their applications for the issue of passports, if they were otherwise eligible to hold the same.

2. Pursuant to the judgment dated 22/09/2016 of the High Court of Delhi, the Ministry of Home Affairs being the major stakeholder on the TRs as well as Indian citizenship related issues was requested to apprise this Ministry whether they are intended to file an Appeal/SLP against the impugned order dated 22/09/2016 of the Single bench of the High Court of Delhi before the Division Bench of the same High Court or the Supreme Court of India, as the case may be. Since there was no time bound reply by the MHA in this regard, this Ministry decided to comply with the Court's order dated 22/09/2016 and issued the passports to all the petitioner TRs in respect of whom the order was passed.

3. However, the Ministry of Home Affairs subsequently informed that they are not intended to file any appeal against the order dated 22/09/2016 of the High Court of Delhi as their executive instructions, which had been quashed by the High Court could not bear the judicial scrutiny.

4. Since the Ministry of Home Affairs has explicitly stated that they would not file any appeal against the impugned order dated 22/09/2016 of the High Court of Delhi and the executive order dated 26/08/2011 of MHA restraining the TR applicants to declare themselves as the Indian Citizens by birth under Section 3(1) (a) of the Citizenship Act, 1955 has been quashed by the High Court, at present other than the Citizenship Act, 1955 and the order dated 22/09/2016 of the High Court of Delhi nothing is binding on this Ministry. so far as the issue of citizenship of TRs born in India in the above mentioned intervening period is concerned. Moreover, a number of TR applicants after the issue of order dated 22/09/2016 have also approached the same High Court requesting the court to also declare them as the Indian citizens by birth under the relevant section(s) of the Citizenship Act, 1955 and the court has clubbed all such matters for the next hearing scheduled on 21/03/2017, with the observation that unless there is a stay against its order dated 22/09/2016, non-compliance of the same in general in respect of all such TRs amounts to contempt of the High Court. In view of this, there is a huge probability that on the next date of hearing i.e. 21/03/017, the High Court may come down very heavily on the Government.

5. In view of the above, it has been decided that all the Passport Issuing Authorities in India/abroad in compliance/pursuance to order dated 22/09/2016 of the High Court of Delhi, subject to usual checks and other formalities stipulated under the Passports Act, 1967 and the Passport Manual, 2016, **shall process all the pending applications of TR applicants born in India between 26/01/1950 to 01/07/1987, for the issue of passports treating them as the Indian citizens by birth under Section 3(1)(a) of the Citizenship Act, 1955. However, if the Police Verification Report (PVR) in the cases of such applicants from the local police authorities or the security agencies of the Government is received as "ADVERSE" by virtue of the fact that the applicant being a TR is not an Indian citizen by birth, shall not be taken as Adverse but the same shall be accepted as 'CLEAR' and passport will be issued to such an applicant, if he is otherwise eligible to hold the same.**


(Y.K. Shukla)
Under Secretary (PV-I)
Ph. 011-23070364
Fax-011-23389802
E-mail-uspv1@mea.gov.in

To,

- I) All the Passport Offices in India.
- II) All the Indian Missions/Posts abroad.