

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD**

W.P. No.25850 OF 2019

Between:

Dr. Ramesh Chennamaneni

..

Petitioner

v.

Union of India,
Represented by its Home Secretary,
Ministry of Home Affairs,
Grih Mantralaya, North Block,
New Delhi - 110 001 & others
Respondents

..

DATE OF ORDER PRONOUNCED: 09-12-2024

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : No
2. Whether the copies of judgment may be
marked to Law Reporters/Journals. : Yes
3. Whether Their Ladyship/Lordship wish
to see the fair copy of the Judgment? : Yes

B. VIJAYSEN REDDY, J

*** HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY**

+ W.P. No.25850 OF 2019

% Date: 09-12-2024

Dr. Ramesh Chennamaneni
Petitioner

..

v.

\$ Union of India Telangana,
Represented by its Home Secretary,
Ministry of Home Affairs,
Grih Mantralaya, North Block,
New Delhi – 110 001 & others

.. Respondents

! Counsel for Petitioner : Mr. Y. Rama Rao

^ Counsel for respondent Nos.1 to 3 : Mr. B. Narsimha Sharma,
Additional Solicitor General of
India.

Mr. Gadi Praveen Kumar,
Deputy Solicitor General of India.

Mr. V.T. Kalyan,
Learned counsel.

^ Counsel for respondent No.4 : Mr. T. Rajanikanth Reddy
Addl. Advocate General

^ Counsel for respondent No.5 : Mr. V. Ravi Kiran Rao,
Senior Counsel

For Mr. V. Rohith,
Learned Counsel on Record.

> **HEAD NOTE:**

? CASES REFERRED:

1. (1978) 1 SCC 405
2. (2021) 13 SCC 794
3. (2010) 6 SCC 614
4. 2016 SCC OnLine Bom 9003
5. 1971 SCC Online All 40
6. 1962 Supp (3) SCR 288 : AIR 1962 SC 1778
7. MANU/SC/0340/1964 : AIR 1965 SSC 810
8. (1986) 4 SCC 78
9. 1971 (2) SCC 113
10. 1984 (Supp) SCC 346
11. 1969(1) SCC 771
12. (1974) 1 SCC 283
13. (1975) 1 SCC 544
14. (1965) 2 SCR 884 : AIR 1965 SC 1623
15. 2007-2-L.W. 232
16. (1974) 2 SCC 687
17. (1997) 7 SCC 463
18. (2000) 6 SCC 698
19. (2003) 4 SCC 579
20. (2004) 11 SCC 213
21. (2006) 2 SCC 373
22. (2006) 10 SCC 645
23. (2011) 1 SCC 640
24. (2013) 6 SCC 602
25. (2008) 12 SCC 481

C/15

HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.25850 OF 2019

ORDER :

The order in File No.26027/30-2008-IC.II dated 20.11.2019 passed by respondent No.2 - Under Secretary to Government of India, Ministry of Home Affairs, Grih Mantralaya, North Road, New Delhi, holding that the petitioner ceased to be citizen of India has been challenged in this writ petition as being illegal, arbitrary, capricious, unconstitutional and in violation of Section 10(3) of the Citizenship Act 1955 and to set aside the same.

2. The pleaded case of the petitioner, in brief, is as under:

2.1. The petitioner was born in Vemulavada, Karimnagar District, Telangana, in 1956 and a citizen of India by birth. The parents of the petitioner are also Indian Citizens by Birth. The petitioner pursued his College Education in Hyderabad during 1972-74. He went to Germany to pursue higher education. He was appointed as Assistant Professor at Humbolt University, Germany. The petitioner settled down in Germany and acquired citizenship of Germany in 1993.

2.2. The petitioner started social work for the benefit of rural people, more particularly, people of Vemulavada Constituency, Karimnagar District. The petitioner returned to India in 2007. He obtained a residential permit from the Superintendent of Police, Karimnagar on 22.01.2007, based on which he was granted Indian Citizenship, his name was enrolled in the electoral rolls and he was issued election identity card.

2.3. The petitioner applied for Indian Citizenship, as per Form III B of Rule 5 B of the Citizenship Rules 1956 (for short 'Rules') under Section 5(1)(f) of the Citizenship Act 1955 (for short 'Act') by furnishing required details through proper channel in the office of the District Magistrate, Karimnagar, who forwarded the same vide Letter No.12706/PPTS.A2/2008-2 dated 04.10.2008 and recommended for grant of Indian Citizenship. Thereafter, police verification was conducted by the office of the Superintendent of Police, Karimnagar. Based on the police verification report and recommendation of the State Government, the authority concerned of respondent No.1, by the letter dated 21.11.2008, sought clarification, for which the petitioner submitted

his reply through the letter dated 28.11.2008. After satisfying about eligibility of the petitioner under the relevant law, respondent No.1 granted Indian Citizenship to the petitioner vide Certificate No.34 dated 03.02.2009.

2.4. The petitioner contested as a Member of the Legislative Assembly (MLA) from Vemulavada Constituency in the General Elections in 2009, bye-elections held in 2010 and General Elections in 2014 and 2018 and was elected as MLA from Vemulavada Constituency.

2.5. While so, respondent No.5 - Mr. Adi Srinivas who contested against the petitioner on Congress Ticket in the bye-elections in 2010 and on BJP Ticket in 2014, filed a revision petition against the petitioner under Section 15 of the Act with the Government of India stating that the petitioner obtained citizenship certificate by misrepresentation before the authorities concerned. Based on the revision petition, show cause notice dated 31.07.2009 was issued to the petitioner to explain as to why action should not be initiated against him under Section 10(2) and Section 17 of the

Act. Challenging the same, the petitioner filed W.P. No.18259 of 2017 to take up his case under Section 10(3) of the Act and the same was disposed of by the order dated 07.06.2017 directing the respondents to consider the representation dated 10.02.2017 of the petitioner in accordance with the provisions of the Act. However, the competent authority following the enquiry committee report, passed the order dated 31.08.2017 holding that the petitioner ceased to be a citizen of the India.

2.6. Assailing the order dated 31.08.2017, the petitioner filed W.P. No.30601 of 2017 before this Court which was disposed of by the order dated 11.09.2017 directing respondent No.1 to dispose of the review application filed by the petitioner under Section 15A of the Act within a period of six (6) weeks from the date of receipt of 'deprivation order' granting liberty to submit additional material, if any, before respondent No.1.

2.7. Respondent No.1 dismissed the revision petition of the petitioner by the order dated 13.12.2017. Questioning the orders dated 31.08.2017 and 13.12.2017, the petitioner filed W.P. No.163

of 2018 before this Court. This Court, by the order dated 10.07.2019 set aside the orders dated 31.08.2017 and 13.12.2017 holding that they are not sustainable on various grounds especially on the ground that apart from requirement of fraud or false representation under Section 10(2) of the Act, the authority ought to have considered whether continuation of citizenship would not be conducive to public good. It was left open to the competent authority to terminate citizenship of the petitioner only if it is found that continuation of his citizenship is not conducive to the public good. Thereafter, the impugned order dated 20.11.2019 was passed by the Under Secretary to Government, Border Management, Government of India, Ministry of Home Affairs, who is the competent authority.

3.1. It is the case of respondent Nos.1 to 3 that the petitioner made false representation and concealed facts regarding details of his visit to abroad immediately preceding the date of his citizenship application under Section 5(1)(f) of the Act. He obtained registration of citizenship under Section 5(1)(f) of the Act by means of fraud, false representation and concealment of facts and

his actions attract provisions of Section 10(2) of the Act which makes him liable to be deprived of his citizenship. The competent authority has considered several aspects with reference to provisions of Section 10(3) of the Act and finally took a decision by following the directions of this Court.

3.2. It is contended that the Commission of Inquiry (COI) constituted under Section 10(5) of the Act submitted its report on 10.03.2017 concluding that the petitioner has not made honest disclosure about his visits to Germany and on the other hand, by choosing to make false representations in his communication dated 27.11.2008 obtained Indian citizenship by playing fraud on Government of India. In response to Column 6 (b) in Form III B, the petitioner gave false information that through out the period of 12 months, immediately preceding date of application, he has resided in India.

3.3. It is submitted that the petitioner visited abroad from 01.03.2007 to 23.11.2007 and from 20.10.2007 to 28.02.2008 during 12 months preceding the date of application, which was

confirmed by the State Government by the letter dated 01.09.2009. His misrepresentation and concealment of fact misled the Government of India in making his decision. Had the petitioner revealed that he was not in India before making application, the competent authority could not have granted citizenship to him.

4.1. The case of respondent No.5 is that the petitioner obtained residential permit by suppressing certain facts and crucial information. The petitioner filed application in Form - III B for registering as citizen of India; in Column No.6 of the application, the petitioner falsely stated that he has resided in India for a period of twelve (12) months immediately preceding the date of his application. In fact, the petitioner arrived in India on 22.01.2007 and left for abroad on 01.03.2007, came back to India on 26.11.2007 and again left for abroad on 20.12.2007 and again came to India on 28.02.2008. Thus, it is clear that the petitioner stayed in India only for 96 days prior to his date of application and thus not complied with the conditions mentioned in Section 5(1)(f) of the Act. The authorities without verifying the details mentioned by the petitioner in the application, forwarded the same to the District

Administration i.e., the District Collector, Karimnagar and the Superintendent of Police, Karimnagar, which facilitated him to get the citizenship of India on 03.02.2009.

4.2. The German passport of the petitioner was valid up to 25.02.2023. He went to Germany in December 2019 from Chennai Airport by using his German Passport. Thus, it is clear that even after 2013, the petitioner got his German Passport renewed and after obtaining citizenship in India on 02.03.2009, the petitioner continued to be citizen of Germany and got his German Passport renewed. Thus, it is evident that the petitioner has played fraud by misrepresenting the authorities and perpetuated his fraud by holding German Citizenship and German Passport even after acquiring Indian Citizenship.

5. This Court by the order dated 18.11.2020 passed the following interim order:

"Petitioner challenges order dated 20.11.2019 passed by respondent No.2 - Under Secretary to Government of India, Ministry of Home Affairs, New Delhi' holding that he ceases to be a Citizen of India.

The petitioner has been elected as Member of Legislative Assembly (MLA). It is to be noted that a non-citizen of India cannot be an MLA, Therefore, the matter deserves grave importance.

It is to be noted that even during pendency of the Writ Petition, on 22.12.2019, the petitioner had travelled to Germany with German Passport. However, this serious aspect has not been stated in the counter-affidavit to enable the petitioner to defend the same.

The only issue, which is required to be verified, is whether the petitioner had surrendered the German Passport and thereafter, had obtained once again, the Indian Passport.

In those circumstances, the petitioner shall file an affidavit categorically stating details as to his surrendering the German Passport, along with proof of giving up of his German Citizenship.

Likewise, Secretary to Government representing respondent No.1 shall send necessary mails to the authorities in Germany by setting out the facts and confirm the status of the petitioner. He shall also address the Indian Embassy in Germany with a request to ensure the information sought by the Court is obtained.”

6. In compliance of the aforesaid order of this Court dated 18.11.2020, the petitioner filed affidavit dated 15.12.2020 stating that the Central Government was pleased to grant citizenship to the petitioner on 03.02.2009 pursuant to his application under Section 5(1)(f) read with Rule 5 and Form III B. In compliance of Clause 13 of Form III B of Rule 5(b) under Section 5(1)(f) of the Act, the petitioner has intimated about acquisition of citizenship of India to the office of the Citizenship Issues, District Office, Pankow, Germany by the letter dated 03.03.2009 as per the procedure conveyed to him by the authority concerned. It is further stated that under the German Law, if a citizen voluntarily acquires citizenship of the other country, he shall automatically lose his citizenship of that country. The petitioner is in possession of valid Indian Passport which was obtained in the month of March 2020. However, due to the grace period allowed to surrender the old German Passport after acquiring Indian Citizenship, he has used it for travelling to Germany to meet his family. In India, the concerned Ministry allows three (3) years and a penalty thereafter for non-surrender, renewal/re-issue of the Indian Passport and

travelling on it after acquiring foreign Nationality, up to Rs.50,000/-. In view of the same, the petitioner intends to surrender his old German Passport. Due to COVID-19, the Government of Germany had declared lockdown till the mid of January 2021 and the petitioner has complied with Clause 13 of Form III B under Rules 5 and 5(b) of the Act. Along with the affidavit, the petitioner has enclosed copy of the letter dated 13.02.2020 issued by the Department of Urban Development and Citizen Services, District Office of Pankow in Berlin, confirming that the petitioner has submitted the registration notification on acquiring Indian citizenship. Another letter dated 03.03.2009 is also enclosed to the affidavit whereunder the petitioner has informed the office of the Citizenship Issues, District Office Pankow, Berlin, stating that he has acquired Indian Citizenship on 03.02.2009 and that he is sending a copy of the certificate (registration of citizenship) to them.

7.1. In compliance of order of this Court dated 18.11.2020, respondent Nos.1 to 3 filed Memo dated 15.12.2020 along with Exs.1 to 6. Ex.1 is copy of the Office Memorandum dated

02.12.2020 issued by the Ministry of Home Affairs, Government of India, requesting the Ministry of External Affairs to confirm status of the petitioner as German National and also to communicate that the German authorities and Indian Embassy in Germany and reply received from them to be made available to the Ministry of Home Affairs. In response to the same, the Embassy of India in Berlin informed the Ministry of External Affairs, Union of India by Ex.2 - e-mail dated 28.02.2020 that (i) the petitioner held PIO Card bearing No.P-0003537 which was issued on 30.12.2002 and valid up to 29.12.2017; the PIO Card was issued as he held German Passport No.2459036076 (date of expiry 26.07.2003); subsequently a fresh Passport No.2498413005 was issued which was valid till 02.04.2013 and the same was entered on his PIO Card; and (ii) a fresh German Passport bearing No.C3JKNP5WO was issued on 26.02.2013 and was valid till 25.02.2023 which was also entered on his PIO Card; and (iii) the petitioner has applied vide Application No.DEUE00212X19 for OCI Card in lieu of PIO Card on 18.09.2019. His application indicated that he held a German Passport on the date of making

application for OCI Card in lieu of PIO Card. Thus, it can be assumed that the petitioner held German Passport as on 18.09.2019.

7.2. Ex-3 are copies of the Persons of Indian Origin (PIO) Cards of the petitioner which were valid from 30.12.2002 to 29.12.2017 and from 26.02.2013 till 25.02.2023. Ex.4 is the copy of application dated 18.09.2019 for registration as overseas citizen of India (OCI) wherein Nationality of the petitioner was shown as Germany and it is valid from 26.02.2013 till 25.02.2023. Ex.5 is letter dated 17.01.2020 addressed by the Government of India, Ministry of Home Affairs to the learned Deputy Solicitor General of India stating that the petitioner held German Nationality as on 16.12.2019 and that he holds German Passport and travelled abroad on 22.12.2019 using his German Passport.

8.1 In addition to the Memo dated 15.12.2020, respondent Nos.1 to 3 have filed additional counter affidavit dated 14.12.2021 pursuant to the order of this Court dated 18.11.2020 stating that the Consular, Passport and Visa (CPV) Division of the Ministry of

External Affairs, Government of India, vide Office Memorandum dated 14.12.2020 (Annexure - B) intimated that the Indian Mission in Berlin has opined, based on the OCI Card of the petitioner and German Passport, that the petitioner is a German Citizen. That the German Embassy in India intimated that 'a person might hold a German Passport, but he or she does not have to be a German Citizen.' The German Embassy and Foreign Office cannot share such information and advised that existing legal assistance procedures may be used in such cases to seek assistance of the German authorities.

8.2. It is further stated in the additional counter affidavit by respondent Nos.1 to 3 that the petitioner continued to be in possession of the German Passport and travelled abroad using the German Passport even after acquiring Indian Citizenship on 03.02.2009. In proof of the fact that the petitioner has travelled to German on German Passport and OCI Card, the departure details (extract of online immigration, visa and foreigners' tracking (IVFRT) system - Annexure - C) have been filed.

9. The petitioner filed reply to the additional counter affidavit filed by respondent Nos.1 to 3 stating that the Consular, Passport and Visa (CPV) Division of the Ministry of External Affairs is not an authority to declare that the petitioner is a German Citizen. The CPV cannot pass such casual opinion on the citizenship of the petitioner merely on the basis of that the petitioner holds an OCI Card and German Passport; holding a foreign passport is merely a presumption that is rebuttable under Section 9(2) of the Act. It is necessary that the question whether the petitioner has acquired foreign nationality should be considered and determined by the Central Government in accordance with law by following the procedure laid down under Section 9(2) of the Act; such conclusion cannot be arrived at in an affidavit filed in a writ petition that too without providing an opportunity to the petitioner to rebut the said presumption that he has acquired citizenship of a foreign country.

10. It is contended by the learned senior counsel appearing for respondent No.5 and learned Additional Solicitor General of India appearing for the Union of India that the petitioner had been

taking this Court for a ride. He has suppressed material facts not only before the authorities but also before this court. Only after the order dated 18.12.2020 was passed, the petitioner disclosed that he has so far not surrendered German Passport which proves that he has not renounced German Citizenship as required under Column No.13 of the application for citizenship dated 31.03.2008. The petitioner played fraud on this Court and misled the Court from time to time.

11. Heard Mr. Y. Rama Rao, learned counsel for the petitioner; Mr. B. Narsimha Sharma, learned Assistant Solicitor General of India; Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India, and Mr. V.T. Kalyan, learned counsel, appearing for respondent Nos.1 to 3; Mr. T. Rajnikanth Reddy, learned Additional Advocate General, appearing for respondent No.4; and Mr. V. Ravi Kiran Rao, learned senior counsel, appearing for Mr. V. Rohith, learned counsel for respondent No.5, and perused the material on record.

12. Based on the aforesaid pleadings of the parties, the following issues arise for consideration:

1. Whether the petitioner has furnished false information in his application for citizenship?
2. Whether deprivation of citizenship on petitioner is conducive to the public good under Section 10(3) of the Citizenship Act?
3. Whether subsequent events can be relied upon by the respondents' authorities in support of the impugned order, more particularly, in the light of additional affidavits and documents filed by the parties in compliance of the order of this Court dated 18.12.2020?
4. Whether the petitioner has played fraud on the Court and entitled for grant of equitable relief under Article 226 of the Constitution of India?

ISSUE No.1:

13.1. As mandated, application in Form III B of Rule 5 B of the Citizenship Rules 1956 was submitted by the petitioner. Section 5(1)(f) of the Act which is relevant is extracted hereunder:

“5. Citizenship by registration –

(1) Subject to the provisions of this section and such other conditions and restrictions as may be prescribed, the Central Government may, on an application made in this behalf, register as a citizen of India any person not being an illegal migrant who is not already such citizen by virtue of the Constitution or of any other provision of this Act if he belongs to any of the following categories, namely:-

(a)

(b)

(c)

(e)

(f) a person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and is ordinarily resident in India for twelve months immediately before making an application for registration:

(g)”

13.2. *Inter alia* the petitioner has furnished the following information in Column - 6 of his application under Form III B:

“6. Details of residence in India :

(a) Date of entry in India - 22.01.2007

(b) I have resided in India throughout the period of 12 months immediately preceding the date of application - Yes/~~No~~”

14. The citizenship application of the petitioner was processed and clarification was sought by the Ministry of Home Affairs, Government of India, by addressing the letter dated 21.11.2008 to the Secretary, Government of Andhra Pradesh, Home (Passport) Department, to furnish his details of visits abroad, if any, during the last twelve (12) months preceding the date of making his citizenship application. In response to the said letter, the petitioner submitted his reply dated 27.11.2008 categorically stating that he has not visited any country abroad for 12 months period prior to his application for citizenship on 31.03.2008. By considering various provisions of the Act, particularly, Section 5(1)(f) of the Act and the details furnished by the petitioner in Column '6' of his application submitted under Form III B and his reply dated 27.11.2008, the COI in its report dated 10.03.2007 opined that the petitioner made false representation in his communication dated 27.11.2008 about his visits to Germany and obtained Certificate of Indian Citizenship by playing fraud upon the Government of India.

15. In the earlier round of litigation, W.P. No.163 of 2018 was disposed of by the order dated 10.07.2019, in paragraph No.16 therein, this Court has categorically held that the petitioner has given false information in his application for citizenship, which is as under:

“16. The contention of learned senior counsel that petitioner was a citizen of Germany and he travelled to his native country and, therefore, it did not amount to travel abroad, cannot be countenanced. The ordinary meaning of ‘abroad’ is ‘in or to a foreign country or countries’. For India, Germany is a foreign country and travel to Germany would amount to ‘travelling abroad to a foreign country’. Whether such foreign country was a native country of the petitioner has no relevance for the purpose of elucidating the information from the petitioner and petitioner ought to have been careful in responding to the information sought from him and ought to have been fair in stating true facts. Petitioner is trying to cover up his delinquency by stating that he travelled to his native country and same does not amount to travel abroad. Person seeking citizenship of India has to be fair and should disclose all relevant facts for consideration to grant citizenship. Thus, what was disclosed by petitioner was a clear misstatement of fact/false representation. In his over anxiety to gain citizenship of this country, petitioner could not have made such wrong statement, misleading the competent authority in processing

the application to grant citizenship. Therefore, the action initiated and what was alleged cannot be said as invalid nor can it be described as one made in excess of power vested in the competent authority.”

16. It is relevant to note that the petitioner filed W.A. No.684 of 2019 challenging the order in W.P. No.163 of 2018 dated 10.07.2019, however, chose to withdraw the same and accordingly the writ appeal was dismissed as withdrawn by the order dated 21.08.2019. Thus, the order of this Court in W.P. No.163 of 2018 dated 10.07.2019 holding that the petitioner has given false representation and there is misstatement of fact attained finality. The same was pointed out by the COI in its report dated 10.03.2017 and the impugned order dated 20.11.2019. The petitioner has not been able to urge any new facts or raised any contention to differ with the opinion of the COI; thus, this Court does not have any hesitation in holding that the petitioner indulged in giving false statement in his application for citizenship dated 31.03.2008. Accordingly, issue No.1 is answered.

ISSUE Nos.2 & 3 :

17. Mr. Y. Rama Rao, learned counsel for the petitioner, submitted that the core issue of “conducive to public good” necessitated under Section 10(3) of the Act for deprivation of citizenship has not been considered by respondent No.1 in the impugned order. That on the date when the petitioner was granted citizenship i.e., 03.02.2009, the petitioner was not an MLA. The impugned order was passed by recording that the petitioner misled the Government of India by misrepresentation / concealment of fact; had the petitioner revealed that he has not resided in India for one year prior to making his application for citizenship, the competent authority would not have granted citizenship to him. The competent authority held that as a public authority, the petitioner had greater responsibility to be fair in making his submissions and his conduct shall stand as an example to the people whom he represent. It is contended that so far as ‘conducive to public good’ is concerned, the findings recorded by the competent authority do not meet the requirement under Section 10(3) of the Act; the petitioner was not a public representative at

the time of making application for citizenship and the competent authority has taken the subsequent events into consideration which are extraneous and thus there is total non-application of mind by placing reliance on the decision of the Hon'ble Supreme Court in **Mohinder Singh Gill v. Chief Election Commissioner**¹. The learned counsel referred to paragraph No.45 of the order in W.P. No.163 of 2018 dated 10.07.2019, wherein this Court placed reliance on British Nationality Act 1981 and extracted the definition of "conducive to public good" which reads as under:

"55.4.4. "Conduciveness to the Public Good" means depriving in the public interest on the grounds of involvement in terrorism, espionage, serious organised crime, war crimes or unacceptable behaviours."

The learned counsel vehemently contended that the directions of this Court in W.P. No.163 of 2018 have been violated and drawn attention of this Court to paragraph No.50 of the order which is as under:

¹ (1978) 1 SCC 405

“50. Viewed from all the above aspects, the decision to deprive citizenship of petitioner, impugned herein, is not sustainable. It is accordingly set aside. Matter is remitted to Competent Authority for consideration from the stage of submission of report by the Committee. Since, a copy of report is already available with petitioner, he may file his objections. 5th respondent is also entitled to file his response. Petitioner and 5th respondent, respectively, shall exchange their written submissions, if any made, before they are submitted to the competent authority. Written submissions, if any, may be filed within three weeks from the date of receipt of copy of this order. After receipt of written submissions and/or expiry of time mentioned above, as the case may be, the Competent Authority shall fix a date to hold personal hearing, on which date both parties shall appear without fail. He shall consider the written and oral submissions, if any made, and the material on record. He shall also consider whether by his conduct, continuation of Indian citizenship status to petitioner ‘is not conducive of the public good’. On such consideration, he shall take a decision as warranted by law, assigning reasons in support of the decision and communicate the decision to petitioner and 5th respondent. The entire exercise shall be completed within twelve weeks from the date of receipt of copy of this order.”

18. Mr. V. Ravikiran Rao, learned senior counsel appearing for respondent No.5, submitted that the competent authority has

recorded a clear finding that there is misstatement and suppression of fact and that the petitioner has played fraud on the authority; apart from that the petitioner has also played fraud on this Court by trying to mislead the Court from time to time. The order in W.P. No.163 of 2018 dated 10.07.2019 of this Court to the extent of misrepresentation and fraud attained finality. The record discloses that the petitioner has travelled to Germany not only within one year period before filing his application for citizenship, but also after granting Indian Citizenship as a German Citizen. The petitioner further misled this Court by relying on vague correspondences and had audacity to speak falsehood that he has renounced German Citizenship. The petitioner, as a matter of fact, has travelled to Germany on PIO (Person of Indian Origin) Card and there are no entries in the Indian Passport showing that the petitioner has obtained German visa for travelling as Indian Citizen. All these acts of the petitioner constitute 'unacceptable behaviour.'

19. The learned senior counsel appearing for respondent No.5 further submitted that the petitioner cannot be permitted to

blow hot and cold; that in compliance of the order of this Court dated 18.11.2020 in the present writ petition, the Central Government has given information that the petitioner still holds German Passport which is valid (renewed in 2013) until 2023. It is further contended that in the new passport issued to the petitioner on 26.02.2013, the expiry date is shown as 25.02.2023 and in Column No.10, his nationality was shown as “German.” It is submitted, assuming that the competent authority has not specifically pointed out all these shortcomings, this Court can certainly look into subsequent events in public interest and also in view of the interim order of this Court dated 18.11.2020. In response to the contention of the learned counsel for the petitioner that subsequent events cannot be taken into consideration in view of authoritative pronouncement of the Hon’ble Supreme Court in **Mohinder Singh Gill’s case**, the learned senior counsel appearing for respondent No.5 relied on the decisions of the Hon’ble Supreme Court in **Ram Chandra Prasad Singh v. Sharad Yadav**².

² (2021) 13 SCC 794

20. Mr. Narsimha Sharma, learned Additional Solicitor General of India, submitted that there are four modes of acquiring citizenship enumerated under Sections 3 to 6 of the Act. Termination of citizenship under Section 9 read with Rule 40 of the Rules is distinguished from deprivation of citizenship under Section 10 of the Act. The petitioner has submitted citizenship application under Form III B. Power exercised by the respondents is in accordance with Section 10 of the Act. Provision under Section 9 of the Act is not attracted in the instant case. There is absolute compliance of Section 10(5) and 10(6) of the Act by the authorities. The findings of the COI were not challenged by the petitioner. This Court would not exercise power of judicial review over the findings of the Inquiry Committee passed in accordance with the provisions of the Act and the Rules made thereunder as the petitioner has not challenged jurisdiction of the authority nor it can be said that there is any illegality. It is settled law that High Court has limited jurisdiction under Article 226 of the Constitution of India and can interfere only when decision making process is vitiated by arbitrariness, violation of principles of natural justice

and without jurisdiction. The petitioner had been travelling to Germany as German Citizen even after acquiring Indian Citizenship. There is no evidence before this Court to show that the petitioner has renounced his German citizenship. Hence, adverse interference has to be drawn in that regard. Apart from the petitioner acquiring Indian Citizenship by playing fraud, he has also perpetuated the fraud by not only not renouncing Germany Citizenship but also by continuously travelling to Germany on German Passport. The learned Additional Solicitor General of India relied on the judgment of the Hon'ble Supreme Court in **Chairman, All India Railway Recruitment Board v. K. Shyam Kumar**³.

ANALYSIS AND DISCUSSION :

21. On a specific query of this Court in the course of hearing to the learned counsel for the petitioner whether after acquiring Indian Citizenship, the petitioner has travelled on Indian Passport with German visa, learned counsel answered in negative. The learned counsel fairly submitted that the petitioner travelled to

³ (2010 6 SCC 614

Germany only on German Passport. The learned counsel, however, contended that mere holding a German Passport is not a proof of the petitioner being a German Citizen, by placing reliance on the Office Memorandum dated 14.12.2020 of Ministry of External Affairs, Government of India, regarding information given by the German Embassy, New Delhi, that a person having German Passport does not have to be a German Citizen.

22.1. In K. Shyam Kumar's case (Supra 3), the Hon'ble Supreme Court held as under:

“44. We are also of the view that the High Court has committed a grave error in taking the view that the order of the Board could be judged only on the basis of the reasons stated in the impugned order based on the report of vigilance and not on the subsequent materials furnished by the CBI. Possibly, the High Court had in mind the Constitution Bench judgment of this Court in *Mohinder Singh Gill v. Chief Election Commr.* [(1978) 1 SCC 405]

45. We are of the view that the decision-maker can always rely upon subsequent materials to support the decision already taken when larger public interest is involved. This Court in *Madhyamic Shiksha Manal, M.P. v. Abhilash Shiksha Prasara Samiti* [(1998) 9 SCC 236] found no irregularity in placing

reliance on a subsequent report to sustain the cancellation of the examination conducted where there were serious allegations of mass copying. The principle laid down in *Mohinder Singh Gill's case* is not applicable where larger public interest is involved and in such situations, additional grounds can be looked into to examine the validity of an order. The finding recorded by the High Court that the report of CBI cannot be looked into to examine the validity of the order dated 4-6-2004, cannot be sustained.”

22.2. In **Sharad Yadav’s case** (Supra 2), the Hon’ble Supreme Court held as under:

“15. An event or conduct of a person even though subsequent to passing of an order of the Speaker or Chairman ordinarily may not be relevant for determining the validity of the order of the Speaker or Chairman but in a case where subsequent event or conduct of the Member is relevant with respect to state of affairs as pertaining to the time when the Member has incurred disqualification, that subsequent events can be taken into consideration by the High Court in exercise of its jurisdiction under Article 226. Hidayatullah, J. (as he then was) speaking for this Court in *Mohd. Ikram Hussain v. State of U.P.* [*Mohd. Ikram Hussain v. State of U.P.*, AIR 1964 SC 1625] has made a very pertinent observation with regard to acceptance of evidence. It observed that if the Court requires an evidence that can always be received. In para 19, following was laid down : (AIR p. 1632)

“19. ... All procedure is always open to a Court which is not expressly prohibited and no rule of this Court has laid down that evidence shall not be received, if the Court requires it.”

16. The observations made by the High Court [Sharad Yadav v. Ram Chandra Prasad Singh, 2018 SCC OnLine Del 13352] in para 4 i.e. “[a]ny event subsequent to the passing of the said order cannot be a consideration for this Court to test the legality of the said order” may be generally correct but there can be exception if the above statement is treated as statement of law.

17. In a writ petition under Article 226 subsequent events can be taken note of for varied purposes. We are reminded of the weighty observation of V.R. Krishna Iyer, J. in *Pasupuleti Venkateswarlu v. Motor & General Traders* [Pasupuleti Venkateswarlu v. Motor & General Traders, (1975) 1 SCC 770] , where following was observed : (SCC pp. 772-73, para 4)

“4. ... It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the *lis* has come to court and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which

stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fair play is violated, with a view to promote substantial justice - subject, of course, to the absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are legion, even as situations for applications of this equitable rule are myriad. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the Court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed.”

23. In the light of aforesaid pronouncements, it is clear that this Court can take cognizance of subsequent events and developments, and the State can rely on subsequent materials in support of its decision when larger public interest is involved. At the same time, the petitioner cannot complain of violation of principles of natural justice in as much as this Court passed interim order dated 18.11.2020 directing the petitioner and the Government

of India to file affidavits and furnish details of his travel to Germany. The said order was not challenged by the petitioner and, in fact, the order was complied with as discussed in the preceding paragraphs.

24. The learned counsel for the petitioner relied on **Shri Caetano R. Silva v. Prescribed Authority, Ministry of Home Affairs, New Delhi**⁴ contending that there is no public interest involved in a dispute regarding issuance of passport and thus the decisions in **K. Shyam Kumar's case** (Supra 3) and **Sharad Yadav's case** (Supra 2) are not applicable to the facts of the present case. That the *lis* is between the State and the citizen and third party has no *locus* to interfere and agitate the same as there is no public interest involved.

25. It needs to be noted that the 'public interest' cannot be given a narrow and restricted meaning. It has to be understood in the context of facts of a particular case and circumstances. In **Babu Ram Verma v. State of Uttar Pradesh**⁵, High Court of

⁴ 2016 SCC OnLine Bom 9003

⁵ 1971 SCC Online All 40

Allahabad defined the meaning and scope of ‘public interest’ as under:

“28. What is the meaning and scope of “Public interest.”? Public interest in common parlance means an act beneficial to the general public. An action taken in public interest necessarily means an action taken for public purpose, public interest and public purpose are well-known terms, which have been used by the framers of our Constitution in Articles 19, 31 and 304(b). It is impossible to precisely define the expression ‘public interest’ or ‘public purpose’. The requirements of public interest vary from case to case. In each case, all the facts and circumstances would require a close examination in order to determine whether the requirements of public interest or public purpose were satisfied. In *Kalyani Stores v. State of Orissa* [A.I.R. 1966 S.C. 1686.] , validity of a notification issued under Section 27 of the Bihar and Orissa Excise Act) 2 of 1915) imposing a new rate of Rs. 70/- per L.P. Gallon as duty on liquor was challenged on the ground that it was violative of Article 304 of the Constitution. While discussing the reasonableness of the restriction and the requirement of public interest, Shah, J., speaking for the Court, made the following observations:-

“Reasonableness of the restriction would have to be adjudged in the light of the purpose for which the restriction is imposed, that is, “as may be required in the public interest”. Without entering into an exhaustive

categorization of what may be deemed required in the public interest”, it may be said, that restrictions which may validly be imposed under Article 304(b) are those which seek to protect public health, safety, morals and property within the territory.” ”

26. As a foreign national, the petitioner acquired Indian citizenship by giving false information and later continued to hold Indian Passport and German Passport, the petitioner got elected as an MLA. Yet to say that there is no element of public interest involved is incomprehensible and liable to be rejected. When fraud is played on the authority in acquiring citizenship and such act of fraud is brought to the notice of the authority, thereafter action is initiated for termination of citizenship, certainly public interest is involved. Further, as stated above, on directions of this Court by the order dated 18.11.2020, information was furnished by the Central Government that the petitioner has travelled on PIO Card which clearly proves that the petitioner has taken Indian Citizenship only to enter into political fray and contest as an MLA and continue to retain German Citizenship. When the interest of the nation is involved, the contention of the learned counsel for the

petitioner that there is no public interest involved cannot be appreciated.

27. It would be relevant to refer to Section 10 of the Act, which deals with the power of the Central Government to deprive citizenship and the restriction placed on the Government not to deprive citizenship unless it is “conducive to public good,” which reads as under:

“10. Deprivation of citizenship. — (1) A citizen of India who is such by naturalisation or by virtue only of clause (c) of article 5 of the Constitution or by registration otherwise than under clause (b)(ii) of article 6 of the Constitution or clause (a) of sub-section (1) of section 5 of this Act, shall cease to be a citizen of India, if he is deprived of that citizenship by an order of the Central Government under this section.

(2) Subject to the provisions of this section, the Central Government may, by order, deprive any such citizen of Indian citizenship, if it is satisfied that —

(a) the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) that citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution of India as by law established; or

(c) that citizen has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) that citizen has, within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than two years; or

(e) that citizen has been ordinarily resident out of India for a continuous period of seven years, and during that period, has neither been at any time a student of any educational institution in a country outside India or in the service of a Government in India or of an international organisation of which India is a member, not registered annually in the prescribed manner at an Indian consulate his intention to retain his citizenship of India.

(3) The Central Government shall not deprive a person of citizenship under this section unless it is satisfied that it is not conducive to the public good that person should continue to be a citizen of India.”

28. Result of the COI's report dated 10.03.2017 is as under:

“[viii] From the language of the above communication, it is absolutely clear that Dr. Ramesh chennamaneni was supposed to provide information if he had visited any countries outside India. Outside India means outside India. It is a universal truth that Germany is not India.

In our considered opinion, on the receipt of above Communication from Government of India, Dr. Ramesh Chennamaneni was supposed to make honest disclosure about his visits to Germany of the 12 months period prior to making the Application for Citizenship on 31.03.2008. In the said disclosure he could have taken the stand that visit to Germany should not be considered as a visit abroad and should have left to the Government of India to take appropriate decision. By not making honest disclosure about his visits to Germany and on the other hand, by choosing to make false representations in his communication dated 27.11.2008, out conclusion is that Dr. Ramesh Chennamaneni obtained the Certificate of Indian Citizenship by playing fraud upon the Government of India. It is held accordingly.”

29. Paragraph No.14 of the impugned order dated 20.11.2019 reads as under:

“14. **AND WHEREAS**, the Competent Authority has considered following aspects with reference to the provisions of section 10(3) of the Act:-

- (i) Dr. Ramesh Chennamaneni is a sitting MLA and has no criminal background or no criminal case has been filed against him. He has not been reportedly involved in any activity of terrorism, espionage, serious organized crime or war crime.
- (ii) His mis-representation/concealment of fact misled the Government of India in making its decision initially. Had he revealed the fact that he had not resided in India for 1 year before making the application, the competent authority in this Ministry would not have granted citizenship to him.
- (iii) As a public representative, greater responsibility is thrust on Dr. Ramesh Chennamaneni to be fair in making his submissions. His conduct shall stand as an example to the people whom he represents. In its Judgment, reported as Union of India vs. Association for Democratic Reforms (2002) 5 SCC 294, Hon’ble Supreme Court held: “In our view, it is rightly submitted that in a democratic form of Government, MP or MLA is having higher status and duty to the public”. It is a well-known canon of law that ‘Caesar’s wife should be above suspicion’. If a person

misrepresents to gain admittance as a citizen to Country, the harm to the society that such person can bring to the public good by misrepresentation and concealment can be imagined. The absence of criminal charge doesn't mean that person having inclination to misrepresent would be doing good. In fact, there is a very large area of activity open to public representatives, where such economy of truth can seriously endanger public good.

- (iv) As a member of esteemed Legislative Assembly, he is part of the august body which takes decisions affecting fate of millions of citizens. Any misrepresentation or concealment of fact at that level would certainly be not conducive to public good.
- (v) If deprivation in this case is not held on grounds that he is not involved in terrorism, espionage, serious organized crime or war crime, it would become a precedent and many more such persons may obtain Indian citizenship by concealing the material facts and by misleading Government of India.

In view of above, the Competent Authority is satisfied that it is not conducive to public good that Dr. Ramesh Chennamaneni continues to be a citizen of India.”

30.1. The learned counsel for the petitioner placed reliance on the following decisions contending that there is violation of

principles of natural justice and in order to cancel citizenship of the petitioner, the power available to the respondents' authorities is under Section 9 of the Act and not under Section 10 of the Act:

30.2. In Government of Andhra Pradesh v. Syed Mohd. Khan⁶, the issue involved was whether the respondents therein, who obtained Pakistan Passport from the Pakistan Government, automatically ceased to be the citizens of India and it was held by the Hon'ble Supreme Court that termination of citizenship under Section 9 of the Act for voluntarily acquiring citizenship of another country has to be decided by the Central Government and until status of the respondents is determined by the Central Government, the impugned orders of deportation cannot be given effect to.

30.3. In Abdul Sattar Haji Ibrahim Patel v. State of Gujarat⁷, it was held by the Hon'ble Supreme Court that in determining the question as to whether a person is a foreigner within the meaning of the Act or not, Section 9 of the Act has to be borne in mind and it applies to all the cases under the Act which do

⁶ 1962 Supp (3) SCR 288 : AIR 1962 SC 1778

⁷ MANU/SC/0340/1964 : AIR 1965 SSC 810

not fall under Section 8 of the Act. The appellant who domiciled in India acquired Indian Citizenship. The accusation against the appellant was that he was a foreigner and citizen of Pakistan and obtained passport of Pakistan. He entered India in 1957 and obtained residential permit which was extended from time to time. Since the appellant did not leave India even after expiry of his residential permit, it was alleged that he contravened the provisions of Clause 7 of the Foreigners Order 1948. The appellant contended that he has not gone to Pakistan till the month of August 1954 and he pleaded that his parents were born in Godhra and that he is a citizen of India and was not a foreigner.

30.4. In Bhagwati Prasad Dixit Ghorewala v. Rajeev Gandhi⁸, it was held by the Hon'ble Supreme Court that once a person is admitted to be citizen of India unless there is a decision by the Central Government under Section 9(2) of the Act that he acquired citizenship of a foreign country, he shall be presumed to be citizen of India. It was further held that whether a person has acquired citizenship of other country has to be decided by the

⁸ (1986) 4 SCC 78

Central Government and not by the High Court under Section 9(2) of the Act.

30.5. In **State of U.P. v. Rehmatullah**⁹, it was held by the Hon'ble Supreme Court that the respondent therein who entered India in 1955 was in possession of Pakistan passport, he was citizen of India at the time of commencement of Constitution and that until it is determined that he has acquired Pakistan citizenship and thereby lost Indian citizenship by the Central Government, he cannot be treated as a foreigner.

30.6. In **State of U.P. v. Mohammad Din**¹⁰, the issue involved was whether the civil Court has jurisdiction to decide that any person has acquired citizenship of another country? It was held by the Hon'ble Supreme Court that that if civil suit was instituted prior to enactment of the Act, the civil Court has jurisdiction to decide whether the citizenship of an Indian stood terminated on account of his acquisition of citizenship of another

⁹ 1971 (2) SCC 113

¹⁰ 1984 (Supp) SCC 346

country and jurisdiction of civil Court is not ousted in view of the provision contained in Section 9(2) of the Act.

30.7. In State of Uttar Pradesh v. Shah Mohammed¹¹, applicability of Section 9 of the Act for determining whether an Indian citizen has voluntarily acquired citizenship of a foreign country was in issue and it was held by the Hon'ble Supreme Court that the question falls under Section 9(2) of the Act which has to be determined by the Central Government and not by the Courts.

30.8. In State of Gujarat v. Yakub Ibrahim¹², it was held by the Hon'ble Supreme Court that whether a person voluntarily acquired citizenship could be determined only by the Central Government under Section 9(2) of the Act.

30.9. In Gangadhar Yashwant Bhandare v. Erasmo Jesus De Sequeira¹³, respondent therein was formerly a Portuguese Citizen in Goa. He surrendered his Portuguese passport on 15.01.1964 and later acquired Indian citizenship. Election of the respondent was challenged on the ground that he was not a citizen

¹¹ 1969(1) SCC 771

¹² (1974) 1 SCC 283

¹³ (1975) 1 SCC 544

of the India at the relevant point of time as required under the Representation of People Act 1951; it was held based on the evidence adduced by the respondent that he has not voluntarily acquired Portuguese passport; the Supreme Court took note of the fact that the Central Government while exercising power under Section 13 of the Act held that the respondent was Indian Citizen; the Supreme Court further observed that the respondent has renounced his Portuguese citizenship.

30.10. In Mohd. Ayub Khan v. Commissioner of Police, Madras¹⁴, it was held by the Hon'ble Supreme Court that it is not the function of the Courts to determine the question whether the plea raised regarding termination of Indian Citizenship as a consequence of voluntarily acquiring foreign citizenship has to be determined under Section 9 of the Act.

30.11. In S. Nalini Srikanan v. Union of India¹⁵, it was held by the High Court of Madras that till status of citizenship of daughter of the appellant therein is decided under Section 9(2) of

¹⁴ (1965) 2 SCR 884 : AIR 1965 SC 1623

¹⁵ 2007-2-L.W. 232

the Act, she does not cease to be the citizen of this country and will be entitled to enter and live in this country.

31. It can be seen from all the above judgments that the issue involved was relating to adjudication under Section 9 of the Act and dealing with termination of citizenship of India on account of the parties (Indian Citizens) therein voluntarily acquiring citizenship / passport of foreign country. Hence, all the above decisions are not applicable to the facts of the present case and the *lis* involved herein is regarding deprivation of citizenship under Section 10 of the Act as the petitioner, admittedly, was a German Citizen and has applied for Indian Citizenship.

32. The learned senior counsel for respondent No.5 relied on the following decisions of the Hon'ble Supreme Court in support of his contention that the High Courts have limited jurisdiction in exercising the power of judicial review:

1. **M.A. Rasheed v. State of Kerala**¹⁶

2. **Union of India v. G. Ganayutham**¹⁷

3. **Union of India v. Lt. Gen. Rajendra Singh Kadyan**¹⁸

¹⁶ (1974) 2 SCC 687

¹⁷ (1997) 7 SCC 463

4. **Indian Railway Construction Co. Ltd. V. Ajay Kumar**¹⁹
5. **Delhi Development Authority v. UEE Electricals Engg. (P) Ltd.**²⁰
6. **Govt. of A.P. v. Mohd. Nasrullah Khan**²¹
7. **Ganesh Bank of Kurundwad Ltd. V. Union of India**²²
8. **Bajaj Hindustan Limited v. Sir Shadi Lal Enterprises Limited**²³
9. **S.R. Tewari v. Union of India**²⁴

33. All the above judgments relied on by the learned senior counsel appearing for respondent No.5 deal with the same principle on limited scope of interference by the High Court in exercise of power of judicial review. The following judgments which in the opinion of this Court are of more relevance are discussed below:

34.1. In **Ajay Kumar's case** (Supra 19), the Hon'ble Supreme Court held as under:

“12. It is fairly well settled that the power to dismiss an employee by dispensing with an enquiry is not to be exercised so as to circumvent the prescribed rules. The satisfaction as to whether the facts exist to justify dispensing with enquiry has to be of the disciplinary authority. Where two views are

¹⁸ (2000) 6 SCC 698

¹⁹ (2003) 4 SCC 579

²⁰ (2004) 11 SCC 213

²¹ (2006) 2 SCC 373

²² (2006) 10 SCC 645

²³ (2011) 1 SCC 640

²⁴ (2013) 6 SCC 602

possible as to whether holding of an enquiry would have been proper or not, it would not be within the domain of the court to substitute its view for that of the disciplinary authority as if the court is sitting as an appellate authority over the disciplinary authority. The contemporaneous circumstances can be duly taken note of in arriving at a decision whether to dispense with an enquiry or not. What the High Court was required to do was to see whether there was any scope for judicial review of the disciplinary authority's order dispensing with the enquiry. The focus was required to be on the impracticability or otherwise of holding the enquiry.

14. The present trend of judicial opinion is to restrict the doctrine of immunity from judicial review to those class of cases which relate to deployment of troops, entering into international treaties etc. The distinctive features of some of these recent cases signify the willingness of the courts to assert their power to scrutinize the factual basis upon which discretionary powers have been exercised. One can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground is “illegality”, the second “irrationality”, and the third “procedural impropriety”. These principles were highlighted by Lord Diplock in *Council of Civil Service Unions v. Minister for the Civil Service* [(1984) 3 All ER 935 : 1985 AC 374 : (1984) 3 WLR 1174 (HL)] (commonly known as *CCSU case*). If the power has been exercised on a non-consideration or non-application of mind to relevant factors,

the exercise of power will be regarded as manifestly erroneous. If a power (whether legislative or administrative) is exercised on the basis of facts which do not exist and which are patently erroneous, such exercise of power will stand vitiated. (See *CIT v. Mahindra and Mahindra Ltd.* [(1983) 4 SCC 392 : 1983 SCC (Tax) 336 : AIR 1984 SC 1182]) The effect of several decisions on the question of jurisdiction has been summed up by Grahame Aldous and John Alder in their book *Applications for Judicial Review, Law and Practice* thus:

“There is a general presumption against ousting the jurisdiction of the courts so that statutory provisions which purport to exclude judicial review are construed restrictively. There are, however, certain areas of governmental activity, national security being the paradigm, which the courts regard themselves as incompetent to investigate, beyond an initial decision as to whether the Government's claim is bona fide. In this kind of non-justiciable area judicial review is not entirely excluded, but very limited. It has also been said that powers conferred by the Royal Prerogative are inherently unreviewable but since the speeches of the House of Lords in *Council of Civil Service Unions v. Minister for the Civil Service* [(1984) 3 All ER 935 : 1985 AC 374 : (1984) 3 WLR 1174 (HL)] this is doubtful. Lords Diplock, Scarman and Roskill appeared to agree that there is no general distinction between powers, based upon whether their source is statutory or prerogative but that judicial review can be limited by the subject-matter of a particular power, in that case national

security. Many prerogative powers are in fact concerned with sensitive, non-justiciable areas, for example, foreign affairs, but some are reviewable in principle, including the prerogatives relating to the civil service where national security is not involved. Another non-justiciable power is the Attorney-General's prerogative to decide whether to institute legal proceedings on behalf of the public interest.”

34.2. In Delhi Development Authority’s case (Supra 20), the Hon’ble Supreme Court held as under:

“12. Courts are slow to interfere in matters relating to administrative functions unless decision is tainted by any vulnerability such as lack of fairness in procedure, illegality and irrationality. Whether action falls within any of the categories has to be established. Mere assertion in that regard would not be sufficient.

13. The famous case *Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.* [(1948) 1 KB 223 : (1947) 2 All ER 680 (CA)] (KB at p. 229 : All ER p. 682) commonly known as “*The Wednesbury case*” is treated as the landmark so far as laying down various basic principles relating to judicial review of administrative or statutory direction is concerned.

14. The law is settled that in considering challenge to administrative decisions courts will not interfere as if they are sitting in appeal over the decision.”

34.3. In **Mohd. Nasrullah Khan’s case** (Supra 21), the Hon’ble Supreme Court held as under:

“11. By now it is a well-established principle of law that the High Court exercising power of judicial review under Article 226 of the Constitution does not act as an appellate authority. Its jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. Judicial review is not akin to adjudication on merit by reappreciating the evidence as an appellate authority.”

34.4. In **S.R. Tewari’s case** (Supra 24), the Hon’ble Supreme Court held as under:

“19. In *CIT v. Mahindra & Mahindra Ltd.* [(1983) 4 SCC 392 : 1983 SCC (Tax) 336 : AIR 1984 SC 1182] , this Court held that various parameters of the court's power of judicial review of administrative or executive action on which the court can interfere had been well settled and it would be redundant to recapitulate the whole catena of decisions. The Court further held : (SCC p. 402, para 11)

“11. ... it is a settled position that if the action or decision is perverse or is such that no reasonable body of persons, properly informed, could come to or has been arrived at by the authority misdirecting itself by adopting a wrong approach or has been influenced by irrelevant or extraneous matters the Court would be justified in interfering with the same.”

21. In *Air India Ltd. v. Cochin International Airport Ltd.* [(2000) 2 SCC 617 : AIR 2000 SC 801] , this Court explaining the scope of judicial review held that the court must act with great caution and should exercise such power only in furtherance of public interest and not merely on the making out of a legal point. The court must always keep the larger public interest in mind in order to decide whether its intervention is called for or not.”

35. It is pertinent to note that the learned counsel for the petitioner has not pointed out any inaccuracies or illegality in the findings of COI in the order dated 10.03.2017. So also, there is not much of grievance regarding findings recorded in the impugned order dated 20.11.2019. It is contended that the matter requires to be remanded as respondent No.2 has not formed any opinion on “not conducive to public good” as required under Section 10(3) of the Act.

36. In the opinion of this Court such contention is misplaced and without any merit. The scope of interference in the orders passed by administrative and quasi-judicial authorities as held in the decisions referred to above in the aforesaid paragraph Nos.34.1 to 34.4 is limited. This Court cannot substitute its decision to the decision of the authority merely because another view is possible and due to minor inconsistencies which, in the opinion of the Court, can be reconciled. In the impugned order, the fact of petitioner furnishing false information about his travel to Germany for the preceding one year before the date of application was clearly recorded; the fraud committed by the petitioner was emphasised and it was held that continuance of his citizenship is not conducive to public good. Assuming that the petitioner was not an MLA in 2008 (when application for citizenship was submitted) and findings recorded about his public life after his election as MLA are extraneous and are to be ignored, still the same would not vitiate the impugned order. As observed in the preceding paragraphs the subsequent events / information furnished pursuant to the order of this Court dated 18.11.2020 support the

case of the respondents and are in the aid of the impugned order. It is not the verbatim text which needs to be seen but the purport of the order impugned. Respondent No.2 categorically held that it is not conducive to public good to continue the citizenship of the petitioner. The additional affidavits and documents reveal that the petitioner suppressed crucial information about his continuing German Citizenship / Passport which is valid until 25.02.2023 (Page No.221 of Part - I). He travelled several times as German national on German Passport (Page 236 of Part - I). His German Passport is valid until 25.02.2023. He holds PIO Card (Page No.219 of Part - I). Not a scrap of paper is filed by the petitioner to show that he has renounced German citizenship. These acts of the petitioner constitute 'unacceptable behaviour' in the context of findings given in the impugned order regarding "not conducive to public good." The learned counsel for the petitioner tried to convince this Court contending that another opportunity be given to the petitioner to prove his renunciation of German Citizenship and also placed reliance on the provisions of German Laws and correspondence dated 01.03.2021. It is relevant to note that such

contentions were not raised before the COI and respondent No.2, as such, the petitioner cannot be permitted to improve his case in this writ petition wherein the Court is sitting in review and not in appeal. It should not be forgotten that situation and circumstances as they were existing in 2009 when the petitioner was granted citizenship are relevant and not subsequently and certainly not in 2024, when the matter is heard. If the petitioner is given opportunity now, then it would be travesty of justice and amount to fraud on the Constitution and Citizenship Act.

37. In the opinion of this Court, the principle of law laid down by the Hon'ble Supreme Court in **K. Shyam Kumar's case** (Supra 3) and **Sharad Yadav's case** (Surpa 2) is applicable to the facts of the present case as public interest is involved and subsequent events can certainly relied upon by the respondents' authorities in the aid of impugned order..

38. The learned counsel for the petitioner submitted that hearing was conducted by one authority (Joint Secretary to Government of India) and the order was passed by another authority (Under Secretary to Government of India). Thus, the

impugned order suffers from violation of principles of natural justice and is liable to be set aside.

39. The learned senior counsel appearing for respondent No.5 submitted that it is not disputed by the petitioner that the Secretary to the Government (competent authority) has conducted hearing. In fact, both the learned counsel appearing in this writ petition have also appeared before the Secretary to the Government. The Under Secretary to the Government has signed the impugned order on behalf of the Secretary to the Government who heard the matter. The petitioner has deliberately not made the Secretary to the Government as party to the writ petition; had it been done so, the Secretary to the Government would have clarified the said point. This Court agrees with the contention of the learned senior counsel appearing for respondent No.5 that the petitioner has not chosen to make the Secretary as party respondent to this writ petition so as to enable him to clarify such contention. As there is no dispute that the proceedings were conducted by the Secretary to the Government, it has to be assumed that the Under Secretary to the Government has signed on behalf of the Secretary.

In the absence of any authentic material, this Court holds that the Under Secretary to the Government has signed on behalf of the Secretary to the Government who admittedly conducted hearing in the impugned proceedings. Another contention raised by the learned counsel for the petitioner, by taking strength on the observations in paragraph No.47 of the order in W.P. No.163 of 2008 dated 10.07.2019, is that the petitioner would become stateless if the impugned order is not set aside. Such contention cannot be accepted as it is alien to the provisions of the Act. In any case, as discussed supra, the petitioner is still holding German citizenship and would not become stateless. Accordingly, issue Nos.2 and 3 are held against the petitioner.

ISSUE No.4:

40. On the point of the petitioner approaching this Court with unclean hands and discretionary relief under the writ jurisdiction should be declined, the learned senior counsel for respondent No.5 relied on the decision of the Hon'ble Supreme

Court in **K.D. Sharma v. Steel Authority of India Limited**²⁵

wherein it was held as under:

“36. A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the court, the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, “*We will not listen to your application because of what you have done.*” The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it.

39. If the primary object as highlighted in *Kensington Income Tax Commrs.* [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] is kept in mind, an applicant who does not come with candid facts and “clean breast” cannot hold a writ of the court with “soiled hands”. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in

²⁵ (2008) 12 SCC 481

a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.”

41. That even assuming that subsequent events cannot be relied upon to support the impugned order [**Mohinder Singh Gill’s case** (Supra 1)], if the petitioner had been fair to this Court, in the interest of justice, this Court may have remanded the matter to the authorities on the touchstone of Article 14 of the Constitution of India and violation of principles of natural justice. The petitioner from the beginning had been trying to mislead the Court and played fraud on the Court despite this Court giving a clear finding that he is indulged in misstatement of fact by the order dated 10.07.2019 in W.P. No.163 of 2018. Even in the present writ petition at paragraph Nos.30, the petitioner unequivocally asserted that he has surrendered his German passport. Although in the series of litigation, the petitioner gave an impression to this Court that he has renounced his German Citizenship which is factually

and on the face of record is incorrect. Until order dated 18.12.2020 was passed by this Court, the petitioner has not informed this Court that he has not renounced his German Citizenship and his German Passport which is a mandatory requirement as per Clause 13 of Form - III B of his application for citizenship. The petitioner still holds German passport and had been travelling to Germany on German passport on PIO Card and his nationality is shown as German Citizen in the German Passport which was renewed on 26.02.2013 until 25.02.2023 (Page No.221 of Part - I) and he still contends before this Court that he has renounced his German Citizenship. This conduct of the petitioner cannot be countenanced. The petitioner had played fraud on the Court and on this count also, this Court is not inclined to grant any relief in the writ petition. Accordingly, issue No.4 is answered.

42. In the light of above discussion, this Court holds that there are no merits in the writ petition.

43. It is not in dispute that the petitioner is financially well placed and he claims to have spent several crores for the welfare of his constituency people. He has:

(a) furnished false information in his application and acquired Indian Citizenship by playing fraud on the authorities,

(b) travelled on German Passport as PIO even after acquiring Indian Citizenship,

(c) misled this Court from time to time and played fraud on the Court;

(d) not informed this Court about holding and renewing German Passport until interim order dated 18.11.2020 was passed by this Court,

(e) contested as MLA, Vemulavada, and got elected several times thereby depriving an Indian Citizen of being elected as MLA,

(f) made respondent No.5 to file election petition in E.P. No.5 of 2014 and defend the proceedings before various authorities and

several writ petitions including the present one and to fight for justice for more than one and half decade and also consumed precious time of this Court, and

(g) travelled to Germany several times and indulged in luxury litigation and taken undue advantage of loopholes in the system and Court process and has been elected as MLA in 2009 (General Elections), 2010 (Bye-Elections), 2014 (General Elections) and 2018 (General Elections);

and despite the same, if this Court is lenient, it would send a wrong message to the unscrupulous litigants and public in general. Thus, the writ petition deserves to be dismissed with exemplary costs.

44. For the aforesaid reasons, the writ petition is dismissed with costs of Rs.25,00,000/- (Rupees twenty five lakhs only) payable to respondent No.5 for the loss and mental agony suffered by him for more than one and half decade and Rs.5,00,000/- (Rupees five lakhs only) payable to the High Court Legal Services Committee, Hyderabad, totalling to Rs.30,00,000/- (Rupees thirty lakhs only) within a period of one (1) month from today.

As a sequel thereto, miscellaneous applications, if any,
pending in the writ petition stand closed.

B. VIJAYSEN REDDY, J

December 9, 2024.

NOTE: LR COPY TO BE MARKED. (BO)PV