

IT-48

ORDER OF THE SUPREME COURT OF INDIA OF 22 FEBRUARY 2013

IA 4 OF 2013 IN SLP (C) NO. 20370 OF 2012

859355

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

IA 4 OF 2013INSPECIAL LEAVE PETITION (C) NO. 20370 OF 2012

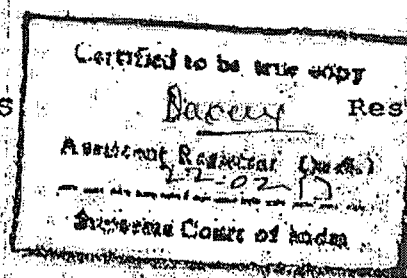
MASSIMILANO LATORRE AND ORS.

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS

Respondent(s)

ORDER

1. IA No.4 of 2013 has been filed in SLP (C) No. 20370 of 2012, wherein we had passed certain Orders on 18th January, 2013, permitting the applicants/petitioner Nos. 1 and 2, Mr. Massimilano Latorre and Salvatore Girone, to travel to Italy for a period of four weeks under the supervision, custody and control of the petitioner No.3, the Ambassador of Italy to India, and thereafter to return to India within the said period.

2. Pursuant to the said Order, the applicants/

petitioners travelled to Italy and returned within the period specified in the Order.

3. This application has now been made for further permission to the petitioners/applicants Nos.1 and 2, to travel to Italy for the purpose of casting their votes in the election scheduled on 24th and 25th February, 2013. In fact, the prayers in the interlocutory application No.4 are as follows:-

"(a) In relaxation of the conditions imposed by this Hon'ble Court vide its order dated 18.01.2013, permit the Applicant No.1 and 2 to travel to the Republic of Italy under round the clock care/custody, control and supervision of the Applicant No. 3 for a period of four weeks and thereafter return to India within said time or such time as permitted by this Hon'ble Court;

(b) direct the Respondents and their concerned departments/authorities to facilitate the international passage of the Applicant No.1 and 2 from New Delhi, India to Italy and thereafter,

their travel back to New Delhi, India within four weeks and in that behalf direct the Union of India to release of their passports forthwith and direction for grant of exit visa by Foreigners Regional Registration Office and/or other authorities."

4. Having heard learned counsel for the applicants/petitioners, as well as learned ASG, Mr. Malhotra and Mr. Giri, senior counsel, appearing for the State of Kerala, we are inclined to allow the prayers, as made.

5. It may be noted that an additional affidavit has been filed by Daniele Mancini, Ambassador of Italy in India, representing the applicant No.3, indicating that under the Italian laws, the petitioners 1 and 2 are not entitled to cast their votes in their present circumstances, and that they have to travel to Italy for the said purpose. The said respondent has also affirmed an Affidavit of Undertaking on 9th February, 2013, whereby he has taken full responsibility for the petitioner Nos. 1 and 2 to proceed to

Italy in the custody and control of the Government of Italy and to ensure their return to India in terms of this Order.

6. On behalf of the petitioner Nos.1 and 2, it has been submitted by Mr. Harish Salve, learned senior counsel, that an additional affidavit will also be filed on their behalf giving the same undertaking for their travel to Italy and their return.

7. In that view of the matter and having regard to the fact that once before the petitioner Nos. 1 and 2 had been permitted to travel to Italy and they had returned within the stipulated period, we allow the application and permit the petitioners/applicants Nos.1 and 2, to leave India and to remain in the Republic of Italy for a period of four weeks from the date of departure from India. They shall travel to Italy, remain in Italy and return to India under the care, supervision and control of the Italian Republic and shall also report to Chankyapuri Police Station, New Delhi, both at the time of their departure and on their return.

8. The Republic of Italy will provide the address and contact details of the

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petitioners/applicants Nos.1 and 2 and also provide further information about their movements in Italy to the Chankyapuri Police Station, New Delhi, during their stay in Italy. The petitioners shall also not leave the Republic of Italy, except for return to India. On their return, the applicants/petitioners conditions contained in the Order passed by this Court on 18th January, 2013.

9. By the aforesaid Order/judgment, this Court had also directed that since the passports of the petitioners/applicants Nos.1 and 2 had been surrendered to the trial court in Kollam, the same were to be transferred by the said Court to the Home Ministry, immediately upon receipt of a copy of the judgment. It is submitted by Mr. Salve, on instructions, that the said passports have been sent by mail by the Court concerned and is yet to reach the Home Ministry. In such circumstances, the applicants/petitioners Nos.1 and 2 will be entitled to travel to Italy and to return to India on the basis of temporary passports/travel documents and the Ministry of Home Affairs shall direct the Foreigners

Regional Registration Office, to provide the said petitioners/applicants with the necessary exit and re-entry visas on the said temporary travel documents. The Ministry of Home Affairs, Government of India, shall also inform the authorities of the Indira Gandhi International Airport, including the Bureau of Immigration and the C.I.S.F. concerned, of this Order.

10. The condition Nos. 1 to 4 of the directions contained in respect of the judgment/Order of 18th January, 2013, are relaxed to the extent indicated in this Order. On their return to India at the end of the period hereby granted, the said petitioners/applicants Nos. 1 and 2 would once again be bound by the said conditions in their full force.

11. Let the undertaking by the petitioner Nos. 1 and 2, be filed in Court today within 2.00 p.m.

12. Let copies of this order be made available to the learned advocates of the respective parties. In addition, let copies of the same be also sent to the Home Secretary, Foreigners Regional Registration Office, Bureau of Immigration, CISF, Indira Gandhi International

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Airport and to the D.C.P. IGI Airport, which will act on the basis thereof, immediately on receipt of the same.

13. I.A. 4 is disposed of with the aforesaid directions.

14. Let the original additional affidavit dated 19/02/2013 filed in Court today be taken on record.

15. The learned ASG is unable to tell us today as to whether the procedure for constitution of the Special Court directed to be set up by the Central Government, in consultation with the Chief Justice of India, has been initiated or not. In the event steps have not been taken to constitute the Special Court, as directed, the Central Government is directed to do so, without any further delay.

.....CJI.
(ALTAMAS KABIR)

.....J
(ANIL R. DAVE)

.....J
(VIKRAMAJIT SEN)

NEW DELHI;
February 22, 2013.

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ITEM NO. 42

COURT NO. 1

SECTION XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

IA 4/2013 in
Petition(s) for Special Leave to Appeal (Civil) No(s).20370/2012

(From the judgement and order dated 29/05/2012 in WPC No.4542/2012
of The HIGH COURT OF KERALA AT ERNAKULAM)

MASSIMILANO LATORRE AND ORS.

VERSUS

UNION OF INDIA AND ORS.

Certified to be true copy

Done

Admitted Register (in A)

22/02/13

Supreme Court of India

Petitioner(s)

Respondent(s)

(for directions and office report)

Date: 22/02/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ANIL R. DAVE

HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s)

Mr. Harish N. Salve, Sr. Adv.
Mr. Suhail Dutt, Sr. Adv.
Mr. Diljeet Titus, Adv.
Mr. Viplov Sharma, Adv.
Mr. Jagjit Singh Chhabra, AOR
Mr. Achint Singh Gyani, Adv.

For Respondent(s)

Mr. P.P. Malhotra, ASG.
Mr. S.A. Hasnab, Adv.
Mr. B. Krishna Prasad, AOR

R. 2

Mr. V. Giri, Sr. Adv.
Mr. Ramesh Babu M.R., AOR
Mr. Sushruj Jindal, Adv.

IA 4 OF 2013 IN SLF(C) NO. 20370 OF 2013

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UPON hearing counsel the Court made the following
O R D E R

In terms of the signed order, the I.A.4 is disposed of.

Let the original additional affidavit dated 19/02/2013 filed in Court today be taken on record.

The learned ASG is unable to tell us today as to whether the procedure for constitution of the Special Court directed to be set up by the Central Government, in consultation with the Chief Justice of India, has been initiated or not. In the event steps have not been taken to constitute the Special Court, as directed, the Central Government is directed to do so, without any further delay.

(Sheetal Dhillon)
Court Master

(Juginder Kaur)
Assistant Registrar

[Signed order is placed on the file]