Maneka Gandhi vs. Union of India

Impounding of passport under Section 10(3)(c) of the Passports Act, 1967 – Right to travel abroad – Articles 14, 19 and 21 – Natural justice implied.

Date of Order: January 25, 1978
Case Law No: GIB-SC-1978-01
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CASE DESCRIPTION / SUMMARY

Background

The questions before the Supreme Court, on a petition under Article 32, were whether the right to go abroad forms part of "personal liberty" under Article 21; whether the procedure under the Passports Act, 1967 for impounding a passport is fair, just and reasonable; whether Section 10(3)(c) (impounding "in the interests of the general public") and the refusal to furnish reasons under Section 10(5) offend Articles 14, 19(1)(a) and 19(1)(g); and whether natural justice applies to such an administrative order. The petitioner's passport, issued on 01.06.1976, was impounded by the Government of India by an order dated 02.07.1977 "in public interest", with a direction to surrender it within seven days, and the Government declined to furnish reasons, again in the interest of the general public. Only during the proceedings was it disclosed that her presence was likely to be required before a Commission of Inquiry.

Final Verdict

The seven-Judge Bench held, by majority, that the right to travel abroad is part of personal liberty, that Articles 14, 19 and 21 are not mutually exclusive, and that the procedure under Article 21 must be fair and non-arbitrary: "It must be 'right and just and fair' and not arbitrary, fanciful or oppressive; otherwise, it would be no procedure at all." The Court found the expression "in the interests of the general public" neither vague nor unguided, and upheld Section 10(3)(c), but read the audi alteram partem rule into it: in urgent cases a passport may be impounded without prior notice, yet a remedial hearing must follow, and withholding of reasons is an exceptional power to be used sparingly. The Court saw no basis to hold that the Minister had not applied his mind. Noting the Attorney General's statement that the petitioner would be heard, her representation dealt with expeditiously, and any confirmed impounding limited to six months, the Court did not formally interfere with the order and disposed of the writ petition without a formal order and without costs, the passport remaining with the Registrar until further orders.

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