

# Daily Orders for Case WP 9171/2023

Sl. No	Judge(s) Name	Date of Order	Daily Order
1	M.NAGAPRASANNA	21/04/2023	<p>The petitioner is before this Court calling in question an order dated 28.03.2023 whereby the Overseas Citizen of India card ('OCI card' for short) of the petitioner is sought to be cancelled invoking Rule 35(2) of the Citizenship Rules, 2009 on the allegation that the petitioner has indulged himself in anti-India activities. Heard the learned senior counsel Sri.Aditya Sondhi appearing for petitioner, Sri Shanthi Bhushan, learned Deputy Solicitor General of India appearing for FRRO and Union of India and Sri. Aruna Shyam, learned Additional Advocate General appearing for the State. The petitioner claims to be a prominent actor and a social activist based in Bengaluru. He further claims to be a fulbright scholar. The petitioner applies for, and is granted an Overseas Citizen of India Card on 2.11.2018, which was issued by the Foreigners Regional Registration Office ('FRRO' for short). The petitioner claims to be doing social service and had helped thousand of persons during COVID-19 lockdown, and currently collaborating with the Social Welfare Department to ensure that the benefits of rehabilitation reach the devadasi women and traditional artists from marginalized communities. Since he was a frequent traveler to the United States to visit his family members, the aforesaid card was sought and was granted. On 08.06.2022, the FRRO, Bureau of Immigration, Ministry of Home Affairs, Government of India issues a show cause notice on the petitioner seeking to show cause as to why the OCI card of the petitioner should not be cancelled. The allegation made in the show cause notice was, his involvement in the criminal activities caused hatred and disharmony against the communities in the State; he had earlier violated all COVID norms and therefore, the card was sought to be cancelled invoking Section 7D(b) and 7D(e) of the Citizenship Act, 1955. The petitioner replied to the same and on consideration of the reply the impugned order is passed. The relevant portion of the order reads as follows: " .... AND WHEREAS, Mr.Chatan A Kumar's reply dated 04.07.2022 to the Show Cause Notice dated 08.06.2022 has been examined in this Ministry and found to be bereft of plausible explanation. Thus, the reply being unsatisfactory, the Government of India, therefore, is satisfied that it is necessary and expedient to cancel Mr.Chatan A Kumar's OCI Card No.A3310198 issued to him on 01.11.2018. NOW THEREFORE, in exercise of powers conferred under the sections 7D(b) and 7D(e) of the Citizenship Act., 1955, the Government of India hereby cancel the registration as OCI cardholder granted to Mr.Chatan A Kumar with immediate effect." The reply bears consideration only to the aforesaid extent by the Competent Authority. Section 7D of the Act deals with cancellation of registration of an OCI cardholder on certain circumstances:- the cardholder should have obtained the card by means of fraud, misrepresentation or concealment; the cardholder should have shown disaffection towards the Constitution, as by law established; cardholder during any war in which India may be engaged, unlawfully traded or communicated an enemy or been engaged of identical activities; the cardholder within 5 years of registration has been sentenced to imprisonment for a term not less than 2 years; the cardholder has violated any of the provisions of the Citizenship Act or has acted against the interest of sovereignty and integrity of India, or its security and friendly relations of this nation with any other nation. The aforesaid is inter alia. What is invoked in the case at hand is, Section 7D(b) showing disaffection to the Constitution and 7D(e) doing things against the sovereignty and integrity of India inter alia. The allegation against the petitioner in the show cause notice is that he has been involved in many criminal activities such as making derogatory, insulting and objectionable remarks, promoting ill-will, hatred or disharmony against particular community, violated COVID guidelines and had made derogatory remarks on twitter about the judiciary. The petitioner replies to all the allegations. The reply becomes the impugned order. The learned senior counsel Sri.Aditya Sondhi appearing for petitioner contends that the petitioner is entitled to an opportunity of hearing, apart from issuance of a show cause notice, which admittedly has not been afforded to the petitioner. It is his submission that for Section 7D(b) and (e) to get attracted, the offence must be against the national interest or his acts should be inimical thereof. A perusal at the aforesaid provisions qua the allegations, in the opinion of the Court, would not prima facie meet its ingredients. The acts of the petitioner must be established that it is inimical to the national interest, for which the respondents need to justify by way of filing the statement of objections. The learned senior counsel for the petitioner would contend that if the impugned order is not stayed, the petitioner is likely to be deported, as the OCI card gets cancelled and he would be an illegal immigrant in the nation. Therefore, seeks protection till the next date of hearing. I deem it appropriate, in the facts and circumstances of the case, to direct the respondents not to precipitate the matter qua the OCI card, till the next date of hearing. Both the learned DSGI and the learned AAG representing the Union of India and the State would vehemently oppose grant of any such order restraining the respondents from acting upon the OCI card. Both of them, in unison, have put up vehement opposition to grant any such interim protection even. It is their allegation that the petitioner is in the habit of tweeting about the judiciary and the matters that are sub-judice. Therefore, the aforesaid protection order, during the pendency of the petition, shall be on the condition that the petitioner files an affidavit of undertaking within the next 4 days, from the receipt of a certified copy of the order that he would encourage restraint on the tweets qua judiciary and matters that are sub-judice and further undertakes that he would delete the tweets that are against the judiciary and matters that are sub-judice. All the aforesaid would however be subject to the final orders that would be passed by this Court after hearing all the parties. Any violation of the undertaking by the petitioner would entail automatic vacation of the interim protection. For the aforesaid reasons and subject to the aforesaid conditions, the respondents shall</p>

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			not precipitate the issue qua the OCI card of the petitioner, in any manner, till the next date of hearing. Heard in part. List the matter on 02.06.2023 at 3.30 p.m. for further hearing.