



2026:DHC:8342



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: September 23rd, 2026***

CNR No. DLHC010169032026

+ **W.P.(C) 5416/2026**

GIORGIO VULPITTA

.....Petitioner

Through: Mr. Shishir Pinaki and
Mr. Dhaneswar Gudapalli,
Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sanjeev Sabharwal, SPC
for UoI.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

CM APPL. 65573/2026 *[seeking preponement of date of hearing]*

1. This application is filed by the applicant/petitioner seeking preponement of date of hearing of the present writ petition.
2. With the consent of the learned counsel for the petitioner, the writ petition is taken up for final hearing.
3. The application stands disposed of.

W.P.(C) 5416/2026

1. By the present petition, the petitioner seeks issuance of direction to the respondent authorities to permit the petitioner to enter India on visa on arrival.
2. In a nutshell, the case of the petitioner, as discernible from the pleadings, is as follows:



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2.1. The petitioner is an Italian National who was earlier granted an Indian e-Visa on 01.08.2024. The said visa was valid for multiple entries. Under the applicable rules, a foreigner entering India on such a visa may remain in the country for a continuous period of not more than 180 days without registration. In the case of the petitioner, that the said period was due to expire on 27.01.2025.

2.2. In anticipation of the expiry of the said period, it is the petitioner's case that he had booked a flight to Doha for 22.01.2025. However, at the check-in counter at Mopa International Airport, Goa, the airline staff noticed a handwritten correction in the spelling of his surname, particularly the letter 'V', on his passport and declined to permit him to board the flight. Consequently, the petitioner could not leave India on 22.01.2025.

2.3. It is the petitioner's case that he thereafter approached the Italian Consulate, which issued him a fresh and corrected passport on 23.01.2025. The petitioner thereafter booked another flight for 28.01.2025, however, it is the petitioner's case that on 27.01.2025, he was informed by the Italian Consulate that since he had crossed the 180-day limit, he first needed an Exit Permit to leave India. The Exit Permit was then issued to the petitioner on 05.02.2025 with a direction that he leaves India within 10 days.

2.4. The petitioner left India on 08.02.2025 and thereafter returned to India on 10.02.2025. On arrival, the petitioner was stopped at Mopa International Airport, Goa, and, after prolonged questioning, he was informed that he had been blacklisted and would not be permitted to re-enter India. It is the case of the petitioner that no written order



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recording the blacklisting was ever given to him. The petitioner is thereafter stated to have sent representations to the Ministry of Home Affairs and the office of the Director (Foreigners), New Delhi, however, no response was received.

3. In this backdrop, the petitioner has beseeched this Court to issue a writ of mandamus to direct the respondent authorities to permit the petitioner to enter India on visa on arrival.

4. The learned counsel for the petitioner submits that the petitioner was blacklisted without any reason which is contrary to the principles of natural justice and violative of Article 21 of the Constitution of India. To bolster his stance, the petitioner has further placed reliance on the case of ***Mohd. Javed & Anr. v. Union of India & Anr.***, **2019:DHC:2886-DB** and prays that a direction be issued to the respondents to grant visa on arrival to the petitioner.

5. Having heard the counsel and perused the record, this Court is not persuaded by the stance taken by the petitioner for the following reasons.

6. The petitioner's claim to mandamus is destined to fail because there is no inherent or legally enforceable right of a foreign national to seek entry into India. The issuance of a visa is a sovereign function of the State that is embedded in considerations of national security, foreign policy and administrative discretion. Section 3 of the Foreigners Act, 1946 [now repealed] as well as Section 7 of the Immigration and Foreigners Act, 2025 authorises the Central Government to make provisions, either generally or with respect to all foreigners, for prohibiting, regulating or restricting the entry of



foreigners into India or, their departure therefrom or their presence or continued presence therein. The respondent authorities can therefore or rather are entitled to take into consideration all the relevant factors that may warrant scrutiny.

7. In that regard, it is pertinent to note that the Hon'ble Apex Court in the case of ***Hans Muller Of Nurenburg vs Superintendent, Presidency : 1955 SCR (1) 1284*** had categorically noted that the Foreigners Act, 1946 vested the Central Government with an absolute and unfettered discretion and since there is no provision fettering this discretion in the Constitution, an unrestricted right to expel remained.

8. Subsequently, in the case of ***Louis De Raedt v. Union of India : 1991 (3) SCC 544***, the Hon'ble Apex Court affirmed that the fundamental rights of a foreigner was confined to Article 21 of the Constitution of India in relation to life and liberty and did not include the right to reside and settle in this country. It was noted as follows:

*“13. The next point taken on behalf of the petitioners, that the foreigners also enjoy some fundamental rights under the Constitution of this country, is also of not much help to them. **The fundamental right of the foreigner is confined to Article 21 for life and liberty and does not include the right to reside and settle in this country**, as mentioned in Article 19(1)(e), which is applicable only to the citizens of this country. It was held by the Constitution Bench in *Hans Muller of Nurenburg v. Superintendent, Presidency Jail, Calcutta [(1955) 1 SCR 1284 : AIR 1955 SC 367 : 1955 Cri LJ 876]* that the power of the government in India to expel foreigners is absolute and unlimited and there is no provision in the Constitution fettering this discretion. **It was pointed out that the legal position on this aspect is not uniform in all the countries but so far the law which operates in India is concerned, the executive government has unrestricted right to expel a foreigner.** So far the right to be heard is concerned, there cannot be any hard and fast rule about the manner in which a person concerned has to be given an opportunity to place his case, and it is not claimed that if the*



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authority concerned had served a notice before passing the impugned order, the petitioners could have produced some relevant material in support of their claim of acquisition of citizenship, which they failed to do in the absence of a notice.”

9. The reading of the aforesaid as well as the statutory framework, thus, make it abundantly clear that the entry of a foreign national in India is not a matter of enforceable right against the State but a matter of sovereign discretion [Ref. ***Randa Chehab v. Union of India & Ors*** : 2023:DHC:9126].

10. Much emphasis has been placed by the learned counsel for the petitioner on the case of ***Mohd. Javed & Anr. v. Union of India & Anr (supra)*** to contend that the petitioner was blacklisted without any reason which is violative of Article 21 of the Constitution of India and to seek grant of visa in the present case. The reliance placed by the petitioner on the said case, in the opinion of this Court, is misplaced as the same stood on a different footing from the factual matrix of the present case.

11. In the said case, the Division Bench of this Court was faced with a scenario where the foreign national was duly married to an Indian citizen and the couple also had two children both being Indian citizens. The foreign national therein held a valid Long Term Visa and she had continually been residing in India for thirteen years on a valid visa which was also renewed from time to time. In this backdrop that when the Long Term Visa of the foreign national was revoked and a *Leave India Notice* was issued without any procedure, the Division Bench of this Court considered whether the *subsisting* Long Term Visa could have been revoked by the ministry without following *any*



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procedure. Consequently, on a conspectus of such facts, the Division Bench of this Court had noted that the State could not have deprived the family of the foreign national, who were Indian citizens, of their right to life, without complying with the basic tents of natural justice and without affording her an opportunity of hearing to answer any matter alleged against her. The said case, therefore, is in contradistinction to the facts of the present case and cannot be used as a guiding principle to direct the respondent authorities to grant visa to the petitioner herein.

12. As noted above, there is no inherent or legally enforceable right of a foreign national to seek entry into India. It is trite that the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India can be invoked only where there is a violation of a right. In the very dearth of any right, no writ can be issued.

13. Consequently, since the petitioner has not been able to establish that any right vested in him has been infringed, this Court is not inclined to exercise its jurisdiction under Article 226 of the Constitution of India.

14. The present petition is accordingly dismissed.

15. The date already fixed i.e., 16.11.2026 stands cancelled.

AMIT MAHAJAN, J

SEPTEMBER 23, 2026

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