(5) 22.10.10

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Hon'ble Mr. Justice Uma Nath Singh
Administrative Judge, Lucknow

May kindly peruse the office note placed below. Sri Rajiv Maheshwaram, Deputy Director, Institute of Judicial Training & Research, U.P., Lucknow has applied for issuance of 'No Objection Certificate'/ 'Identity Certificate' for obtaining a Passport, vide his application dated 16.7.2010 **(Flag-1).**

It is submitted that previously 'No Objection Certificates' **(Flag -2)** were being issued on behalf of the Hon'ble Court in favour of the Judicial Officers for obtaining Passport but for the last 3 or 4 years, practice of issuance of 'Identity Certificates' **(Flag -3)** have been initiated and following this practice in some matter, 'Identity Certificates' have been issued by the undersigned also.

It is further submitted that two files were submitted to His Lordship Hon'ble Mr. Justice Rajes Kumar, Administrative Judge, Jaunpur/Varanasi for approval to issue the 'Identity Certificate'. In these files, His Lordship was pleased to direct the office to provide complete Rules and Procedure in this regard. It was also directed by His Lordship to report as to whether there is any other G.O. apart from G.O. dated 14-06-1999 and to report as to whether the case of the Officer is covered under the G.O. ?

In aforesaid files, office had submitted a report that apart from the aforesaid G.O., there is no other G.O. with regard to issuance of 'No Objection Certificate' which implies that G.O. has not been modified by the State Government.

Under the process of compliance of His Lordship's direction, I have had an opportunity to go through the provisions the Passports Act / Rules and provisions of the aforesaid G.O. I have also perused some

Note

His Lordship Hon'ble the Administrative Judge, Lucknow, has directed that as the Registrar (Budget) has not given a definite opinion as to whether the officer (Sri Rajiv Maheshwaram) should be issued 'No Objection Certificate' through the Administrative Judge by the High court, let the matter be examined afresh and if the Registrar (Budget) is not competent enough to give a definite opinion, let it be placed before the Rules making Committee or any such Committee of the High Court dealing with the matter for making specific provision in this regard.

(Shaakir Khan)
Jt.Registrar/P.S.to Hon.A.J.
Lucknow
14.02.2011

J.R.(M)

Regr.(13)
17.2.11

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previous files and a perusal of the same, revealed that under the provisions of G.O. dated 14-06-1999, **(Flag -4)** "No Objection Certificates" were being issued according to the old Proforma **(Flagged - 5)** issued by the Passport Office, but subsequently on the basis of application moved by the Judicial Officer, stating that the Passport Office has issued a new Proforma **(Flagged -6),** according to which 'Identity Certificate' is required to be submitted with application form in place of 'No Objection Certificate', Identity Certificates were issued. Thereafter, practice of issuing 'Identity Certificate' has been initiated for the last 3 or 4 years.

It is further submitted that G.O. dated 14-06-1999 provides for issuance of 'No Objection Certificate' only, after taking into consideration, four conditions enumerated under Para 5 of the aforesaid G.O.

Rule 5 of the Passport, 1980 provides that an application for issuance of Passport shall be made in Appropriate Form set out there for in Part-I of Schedule-III. It reveals from perusal of Point No.13 of the Proforma of Application Form No. 1 under Form-I of Schedule-III that the Central Government Servants/ State Government Servants/ PHQ/ Statutory Body are required to attach 'Identity Certificates' (as per **Annexure 'B'** of Passport Information booklet).

In view of the above, the question, which emerges for consideration, is as to whether 'No Objection Certificate' as per provisions of G.O. dated 14-06-1999 **or** the 'Identity Certificate' as per Passport Rules may be issued by the Hon'ble Court in favour of the Judicial Officer for obtaining Passport.

While issuing 'Identity Certificate', it is being certified by the Hon'ble Court that provisions of Section 6 (2) of the Passports Act,

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1967 **(Flag-7)** are not attracted in the case of the applicant and recommendation for issuance of the Passport is also made.

The question, as to whether the provisions of Section 6 (2) of the Passports Act, 1967 are attracted or not, relates to an enquiry and to conduct such an enquiry Passport Authorities are empowered under Section 5 (2) of the Passports Act. New proforma seeking recommendation does not appear to be in consonance of the provisions of the Passport Act, as it is for the Passport Authorities to enquire and examine the case of the applicant / Judicial Officer for issuing of the Passport, as per conditions enumerated under Section 6 (2) of the Passports Act, 1967.

In my opinion, the aforesaid Passport Rules and Proforma/ booklet issued under these Rules, specify the guidelines to be followed by the applicants, while making application for issuance of Passport. Point No. 13, to Form of Application at page 36 of the Passport Rules, refers to 'Identity Certificate'. Section III of the Passport Information Booklet, provides columnwise guidelines for filling up the application form. In reference to column No.13 at page 42 of the Passport Rules, it is provided that Identity Certificate from the **concerned office** should be attached as per annexure-B. Proforma annexure-B, under which Passport Authorities are seeking 'Identify Certificate', also does not specify as to by whom, it should be issued. Therefore it does not appear to have been provided under the Passport Act/Rules, Proforma/Booklet that the 'Identity Certificate' should be issued by the Head of the Department/Hon'ble High Court.

'No Objection Certificate' or the 'Identity Certificate' may be issued by the Hon'ble Court in view of the guidelines / G.O. issued under the orders of the Central Government or the State Government. As per

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record available in the office of the court, the Central Government or the State Government have not issued any G.O./Guidelines to the effect that 'Identity Certificate' should be issued by the Head of the Department. The only guidelines, issued under the aforesaid G.O. dated 14.6.1999 clearly specify that 'No Objection Certificate' may be issued by the Head of the Department, if case of the applicant appears to be covered under the conditions enumerated in para 5 of the aforesaid G.O.

Therefore, in view of the G.O. dated 14-06-1999, the Hon'ble Court, in its discretion, may issue 'No Objection Certificate' in favour of the Judicial Officers, if the case of the Judicial Officer is covered under the G.O.

In view of the above, following proposals are made :-

'No Objection Certificate' **(Flag-2)** be issued in favour of Sri Rajiv Maheshwaram, Deputy Director, Institute of Judicial Training & Research, U.P., Lucknow.

OR

Any other order / direction which may be deemed proper.

Submitted for kind perusal and order.

29-9-2010

(R.K.Tiwari)
Registrar (Budget)