

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27th DAY OF JANUARY, 2026



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 1503 OF 2025 (GM-PASS)

BETWEEN:

1. OBINNA JEREMIAH OKAFOR
S/O. MR. OKAFOR GODWIN
AGED ABOUT 27 YEARS
R/A NO.15, 2ND FLOOR
3RD CROSS RD
NEW YELAHANKA
BENGALURU - 560 064
2. JOHN ADEKWAGH
VANDEFAN
S/O VANDEFAN WISDOM
AGED ABOUT 25 YEARS
R/A NO 15, 2ND FLOOR
3RD CROSS RD
NEW YELAHANKA
BENGALURU - 560 064

...APPELLANTS

(BY SRI REMMY C. IGWE, ADVOCATE)

AND:

1. FOREIGNERS REGIONAL
REGISTRATION OFFICE (FRRO)
BUREAU OF IMMIGRATION, (BOI)
BMTc BUS STAND



5TH FLOOR, 'A' BLOCK
TTMC BUILDING
KENGALHANUMANTHAIA H RD
SHANTI NAGAR
BENGALURU - 560 027

2. STATE OF KARNATAKA
BY POLICE INSPECTOR
R.T NAGAR POLICE STATION
BENGALURU - 560 032

...RESPONDENTS

(BY SRI SHANTHI BHUSHAN H., DSGI FOR R-1 &
SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-2)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961 READ WITH RULE 27 OF THE WRIT PROCEEDINGS RULES, 1977 PRAYING TO SET ASIDE THE FINAL ORDER AND JUDGEMENT DATED 14TH AUGUST 2025, PASSED BY THE LEARNED SINGLE JUDGE IN W.P. NO.15380 OF 2025 (GM-PASS) (IMPUGNED JUDGEMENT) AND IN CONSEQUENCE ALLOW THE WRIT PETITION AND PASS APPROPRIATE ORDER AS PRAYED IN THE WRIT PETITION & ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

CAV JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellants have filed the present appeal impugning an order dated 14.08.2025 passed by the learned Single Judge of this Court in WP.No.15380/2025 (GM-PASS). The said petition was preferred by the appellants as well as one Cyril Udoka Odigbo (arrayed as petitioner No.3 in the said petition). The said petitioners had filed the petition, *inter alia*, praying that they be released from detention and that further directions be issued to the respondents to extend the visa of petitioner No. 1 (appellant No. 1). The said writ petition was dismissed in terms of the impugned order.

2. The respondents had filed a statement of objections alleging that petitioner No. 3 was impersonating Cyril Udoka Odigbo, a Nigerian national and a student of Rayat Bahra University, Mohali, Punjab. It is stated that during further enquiries, it was established that Cyril Udoka Odigbo was a regular student pursuing the Bachelor of Business Administration (2024-2027) in Mohali.

3. Petitioner No.3 has not preferred any appeal against the impugned order.

4. The appellants Nos. 1 and 2 claim to be Nigerian nationals. Appellant No.1 states that he is pursuing his course in Bachelor of Commerce at Sree Omkar College of Commerce and Management, Sathanur, Bangalore. Appellant No.2 had come to India on a student visa for the purpose of studying M.Sc., Computer Sciences at Karpagam Academy of Higher Education, Coimbatore, Tamil Nadu. He claims that he was in the process of shifting to a new institution in Bangalore and therefore had arrived in the city for that purpose a few days prior to his arrest.

5. The movement restriction orders were issued in respect of the appellants on 23.12.2024, and they were sent to Aasare Foundation Trust, Laggere, Bengaluru.

6. The respondents state that appellant No. 1 was in possession of a fake Tanzanian passport (Passport number AB 859343) in the name of David Masinde Edgar, with an Indian visa (number VJ6547540) and an immigration arrival stamp dated 28.04.2024. It was found that although the passport belongs to a Tanzanian national, the Indian Visa (No.VJ6457540) was issued to a Sri Lankan national. It is further alleged that a letter dated 21.05.2025 was also received from the Anti-Narcotic Wing, Central Crime Branch, Bengaluru, acknowledging that no narcotics were

recovered from the possession of the appellants. However, it is contended that the appellants had admitted that they were dealing in narcotics.

7. The aforesaid allegations are stoutly contested by the appellants. Appellant refutes the allegation that the passport of Mr. David Masinde Edgar was recovered from his possession. Admittedly, there is no material to show the involvement of the appellants in the sale of drugs.

8. The undisputed facts are that appellant No.1 had arrived in India on 15.09.2023 with a Nigerian Passport bearing No. A11651384. He held a student Visa (visa no. VL7358115). The said Visa was valid up to 26.04.2025. The said Visa was valid on the date of the movement restriction order, that is, 23.12.2024; it was subsequently cancelled.

9. Insofar as appellant No. 2 is concerned, it is alleged that the appellant did not approach the concerned authorities for registration after his arrival on a student visa (VL8983606) on 05.11.2024. The student visa was issued to him pursuant to a visa invitation from Karpagam Academy of Higher Education, Coimbatore, Tamil Nadu. However, he had not complied with the

requirement to register within four days of his arrival. Appellant no. 2 sought to explain his failure to register on the ground that he was in the process of relocating to Bengaluru and therefore had not registered.

10. The visas issued to the appellants were cancelled. However, there is no dispute that even if the visas had not been cancelled, they would have expired in any event (the visa of appellant No.1 would have expired on 26.04.2025, and the visa of appellant No.2 would have expired on 07.10.2025).

11. The appellants contend that the action taken by the respondent authorities violated Articles 14 and 21 of the Constitution of India. The appellants contend that the Movement Restriction Order dated 23.12.2024 passed under Section 3(2)(e) of the Foreigners Act, 1946 [**Foreigners Act**] read with Section 11(2) of the Foreigners Order, 1948 [**Foreigners Order**], is liable to be set aside as it has been issued in violation of the principles of natural justice. The appellants alleged that, although their visa had been cancelled, they had not been provided with a copy of the order cancelling it. Further, they had not received any prior notice of the cancellation, which would have enabled them to present their defence to the proposed action.

12. The learned Single Judge observed that if the visas issued to the appellants were live and subsisting, the question of procedural fairness in issuing the movement restriction order dated 23.12.2024 under Article 14 of the Constitution of India would be relevant. However, since the visas were cancelled, the question of procedural fairness is not relevant. The learned Single Judge observed that the aspect of procedural fairness, by itself, would not lead to setting aside the order terminating the visa.

13. The learned Single Judge also found no merit in the appellants' contention that they had a right to an extension of their visas.

14. The learned counsel appearing for the appellants contended that none of the allegations made against the appellants were substantiated. He contended that although it is alleged that the appellants were indulging in dealing in drugs, no such charge is established, and no material has been produced to substantiate the same. He contended that the appellants are bonafide students and have the right to complete the course for which they have arrived in India. It is also contended that the appellants' visas were valid on the date of the Movement Restriction Order (as on 23.02.2024) and

that they were, in fact, prevented from completing their studies. Therefore, the order was invalid.

15. He submitted that the said order was vitiated as it was issued in violation of principles of natural justice. He referred to the decision of Madras High Court in ***Mohammad Zaenal Arifin v. State of Tamil Nadu : Crl.O.P.No.25550/2021 and Crl.M.P.No.14126/2021*** decided on 26.04.2022 and drew the attention of the Court to extract of the judgment in ***Muhammed Kamal Islam and others v. State: 2020 SCC Online Mad 1171***, which was set out in the said order. The said extract referred to Article 12 of the International Covenant on Civil and Political Rights, which *inter alia*, provides that everyone lawfully within the territory of the State would have the right to liberty of movement and freedom to choose their residence.

16. He referred to the decision of the Supreme Court in the case of ***Hasan Ali Raihany v. Union of India [WP(Crl.)No.17/2006]***, and, on the strength of that decision, submitted that the competent authority must inform the person being deported of the reasons for his deportation; and, the said person must be given the opportunity to submit his representation against the proposed expulsion. He submitted that in the present case, the concerned authorities had

not complied with the minimum requirement of communicating the decision to deport the appellants and affording them an opportunity to make a representation. He also referred to the Delhi High Court's decision in ***Mohd. Javed and Another v. Union of India and Others : LPA.168/2019 & CM No.11617/2019***, whereby the court had set aside the Leave India Notice directing appellant No.2 in that case, to leave India within a period of fifteen days, *inter alia*, on the ground that the order suffered from the vice of arbitrariness. Additionally, he referred to the decision of the Calcutta High Court in ***Kamil Siedczynski v. Union of India and another (WP.No.4432/2020)***; the decision of the Kerala High Court in ***Manju Saud and others v. Union of India and others (NC 2025: KER: 42092)***; the decision of the Delhi High Court in ***Ramesh Ganeriwal v. Union of India and Another : NC 2017: DHC: 4571***; and the decision of the Kerala High Court in ***Jonathan Baud v. State of Kerala and another : NC 2014 KER 46887***.

17. The Deputy Solicitor General appearing for respondent No.1 and the learned Additional Government Advocate appearing for respondent No.2 State countered the said submission. They submitted that Article 19 of the Constitution of India guarantees only the rights of citizens, not those of foreigners. They submitted

that the Central Government had an absolute and unfettered discretion to expel foreigners from India. They also referred to the decision of the Supreme Court in ***Louis De Raedt v. Union of India and others : AIR 1991 3 SC 1886***.

Reasons and conclusion

18. We heard the learned counsel for the parties at length.

19. There are serious allegations that the appellants have been involved in drug peddling. However, no evidence has been presented that conclusively establishes this. It is claimed that the passport of Mr. David Masinde Edgar was found in the possession of appellant no. 1. However, this claim is challenged as well, and no proof of the passport's seizure has been provided.

20. The respondents also allege that the appellants were found in the company of another Nigerian national who was impersonating a student studying in Mohali. Further, appellant no. 2 had come on a student visa to join the M.Sc. Computer Science course at Karpagam Academy of Higher Education, Coimbatore, Tamil Nadu. But was residing in Bengaluru. These circumstances may, at best, raise a doubt on whether the appellants are bona fide students, but do not establish otherwise.

21. Having stated the above, we may also observe that it was not necessary for the respondents to conduct a detailed enquiry or to prove that the appellants were engaging in any unlawful activities to initiate action for expelling the appellants from India.

22. The Order dated 23.12.2024 issued under Section 3(2)(e) of the Foreigners Act, referring the appellants as well as Cyril Udoka Odigbo, to Aasare Foundation Trust, Laggere, Bengaluru, was issued pursuant to a letter from the Police Inspector of the RT Nagar PS, Bengaluru City. He had reported that the police officials had been investigating the illegal activities of foreign nationals residing at a house of one Fathima Rizwan, at No. 10/B, 8th Cross, Seethana Lane, Chamundinagar. During the investigation, they found that a woman of Nigerian origin was residing there illegally after her visa expired. The inquiries had revealed that there were three (03) other persons, who were residing in the said house, and it was alleged that they were residing illegally, and their visas had expired. The appellants were the three persons of Nigerian origin.

23. Undisputedly, one of the three persons (writ petitioner no.3) was found to be impersonating another person, a student of Nigerian origin, who was pursuing his course at Rayat Bahra University, Mohali, Punjab.

24. It is stated that although no narcotics were found in possession of the appellants, examination of their mobile phones did reveal that they contained information concerning the sale of narcotics.

25. Before proceeding further, it is relevant to refer to Section 3 of the Foreigners Act. The same is set up below:

3. Power to make orders.—(1) The Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into India or their departure therefrom or their presence or continued presence therein.

(2) In particular and without prejudice to the generality of the foregoing power, orders made under this section may provide that the foreigner—

- (a) shall not enter India, or shall enter India only at such times and by such route and at such port or place and subject to the observation of such conditions on arrival as may be prescribed;
- (b) shall not depart from India, or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be prescribed;
- (c) shall not remain in India or in any prescribed area therein;
- (cc) shall, if he has been required by order under this action not to remain in India, meet from any resources at his disposal the cost of his disposal

the cost of his removal from India and of his maintenance therein pending such removal];

(d) shall remove himself to, and remain in, such area in India as may be prescribed;

(e) shall comply with such conditions as may be prescribed or specified—

(i) requiring him to reside in a particular place;

(ii) imposing any restrictions on his movements;

(iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified;

(iv) requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be prescribed or specified;

(v) requiring him to submit himself to such medical examination by such authority and at such time and place as may be prescribed or specified;

(vi) prohibiting him from association with persons of a prescribed or specified description;

(vii) prohibiting him from engaging in activities of a prescribed or specified description;

(viii) prohibiting him from using or possessing prescribed articles;

(ix) otherwise regulating his conduct in any such particular as may be prescribed or specified;

(f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions;

and make provision for any matter which is to be or may be prescribed and] for such incidental and supplementary matters as may, in the opinion of the Central Government, be expedient or necessary for giving effect to this Act.

(g) shall be arrested and detained or confined;

(3) Any authority prescribed in this behalf may, with respect to any particular foreigner, make orders under clause (e) or clause (f) of sub-section (2)."

26. The Foreigners Act was repealed by the Immigration and Foreigners Act 2025 [I&F Act]. It is relevant to refer to Sections 3 and 7 of the said Act. The same are reproduced below:

3. Requirement of passport or other travel document and visa.—(1) No person proceeding from any place outside India shall enter, or attempt to enter, India by air, water or land unless he is in possession of a valid passport or other travel document, and in case of a foreigner, also a valid visa, and any foreigner while present in India shall also be required to possess valid passport or other valid travel document and valid visa, unless exempted under Section 33 or through intergovernmental agreements:

Provided that notwithstanding anything contained in this sub-section, no foreigner shall be allowed to enter into or stay in India, if he is found inadmissible to do so on account of threat to national security, sovereignty and integrity of India, relations with a foreign State or public health or on such other grounds as the Central Government may, specify in this behalf:

Provided further that the decision of the Immigration officer in this regard shall be final and binding.

(2) Notwithstanding anything contained in Section 3 of the Passports Act, 1967 (15 of 1967), no person

shall depart or attempt to depart from India by air, water or land unless he is in possession of a valid passport or other travel document and in case of a foreigner, also a valid visa:

Provided that notwithstanding anything contained in this sub-section, no person shall be allowed to depart or exit from India, if his presence is required in India by any authorised agency or on such grounds as the Central Government may, by order, specify in this behalf:

Provided further that the decision of the Immigration officer in this regard shall be final and binding.

(3) The Immigration Officer may examine the passport or other travel document and visa of a foreigner during his entry into, transit through, stay in, movement within India and also require him to furnish such information as may be necessary and appropriate.

(4) The Immigration Officer may seize a passport or other travel document of any person which has been declared as lost or stolen or considered as damaged or forged or fraudulently obtained or on the direction of the passport issuing authority or courts.

(5) The overall supervision, direction and control on visa and related matters shall vest in and be exercised by the Central Government.

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7. Power to issue orders, directions or instructions.—

(1) The Central Government may, by an order or direction or instruction, make provisions, either generally or with respect to all foreigners or with respect to any particular foreigner or any specified class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into India or, their departure therefrom or their presence or continued presence therein.

(2) In particular, and without prejudice to the generality of the foregoing power, the orders or directions or

instructions issued under this section may provide that the foreigner—

(a) shall not enter India, or shall enter India only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be specified;

(b) shall not depart from India, or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be specified;

(c) shall not remain in India or in any specified area therein;

(d) shall, if he has been required by order or direction or instruction under this section not to remain in India, meet from any resources at his disposal the cost of his removal from India and of his maintenance therein pending such removal;

(e) shall remove himself to, and remain in, such area in India as may be specified;

(f) shall comply with such conditions as may be specified—

(i) requiring him to present himself for examination, for such information in such manner, at such time, as may be required;

(ii) requiring him to reside in a particular place;

(iii) imposing any restrictions on his movements;

(iv) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be specified;

(v) requiring him to allow his photograph and biometric information, as may be specified, to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be specified;

(v) requiring him to submit himself to such medical examination by such authority and at such time and place as may be specified;

(vi) prohibiting him from association with persons of a specified description;

(vii) prohibiting him from engaging in activities of a specified description;

(viii) prohibiting him from using or possessing specified articles;

(ix) regulating his conduct in any such particular as may be specified.

(3) In addition to the foregoing, the Central Government may make provision for any matter which is to be or may be specified and for such incidental and supplementary matters as may be expedient or necessary for giving effect to this Act.

(4) Any authority specified in this behalf may, with respect to any particular foreigner, issue order or direction or instruction under clause (f) of sub-section (2).

27. It is clear from the above that the central government has the authority to issue an order expelling any foreigner from India. The foreigner is then required to comply with such an order. It is well settled that the rights under Article 19(1)(d) and 19(1)(e) of the Constitution of India, which are the right to move freely throughout India and the right to reside and settle in any part of the country, are available only to citizens of India and not to foreigners.

28. In ***Hans Muller of Nurenburg v. State of W.B., (1955) 1 SCC 167***, the constitution bench of the Supreme Court held as under:

34. Article 19 of the Constitution confers certain fundamental rights of freedom on the citizens of India, among them, the right "to move freely throughout the territory of India" and "to reside and settle in any part of India," subject only to laws that impose reasonable restrictions on the exercise of those rights in the interests of the general public or for the protection of the interests of any Scheduled Tribe. No corresponding rights are given to foreigners. All that is guaranteed to them is protection to life and liberty in accordance with the laws of the land. This is conferred by Article 21 which is in the following terms:

"21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law."

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35. Entries 9, 10, 17, 18 and 19 in the Union List confer wide powers on the Centre to make laws about, among other things, admission into and expulsion from India, about extradition and aliens and about preventive detention connected with foreign affairs. Therefore, the right to make laws about the extradition or aliens and about their expulsion from the land is expressly conferred; also, it is to be observed that extradition and expulsion are contained in separate entries indicating that though they may overlap in certain aspects, they are different and distinct subjects. And that brings us to the Foreigners Act, which deals, among other things, with expulsion, and the Extradition Act, which regulates extradition.

36. The Foreigners Act confers the power to expel foreigners from India. It vests the Central Government with absolute and unfettered discretion and, as there is no provision fettering this discretion in the Constitution, an unrestricted right to expel remains.

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40. In the case of expulsion, no idea of punishment is involved, at any rate, in theory, and if a man is prepared to leave voluntarily, he can ordinarily go as and when he pleases. But the right is not his. Under the Indian law, the matter is left to the unfettered discretion of the Union Government and that Government can prescribe the route and the port or place of departure and can place him on a particular ship or plane. [See Sections 3(2)(b) and 6 of the Foreigners Act.] Whether the Captain of a foreign ship or plane can be compelled to take a passenger he does not want or to follow a particular route is a matter that does not arise and we express no opinion on it. But assuming that he is willing to do so, the right of the Government to make the order vis-à-vis the man expelled is absolute.

[emphasis added]

29. **In *Louis De Raedt v. Union of India*, (1991) 3 SCC 554 : 1991**

SCC (Cri) 886, the Supreme Court held as under:

"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 Nuremburg 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 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."

30. Whilst a person who is not a citizen of India is not guaranteed the rights under Article 19 of the Constitution of India, it is equally well settled that the Constitution recognizes the right of all persons to equal protection of laws under Article 14 and the right to life and liberty under Article 21 of the Constitution of India.

31. "Life" under Article 21 of the Constitution has been interpreted broadly. It not only signifies biological existence but also covers all aspects of life. In **Delhi Transport Corporation v DTC Mazdoor Congress: 1991 Supp(1) SCC 600**, the Supreme Court also emphasised that the right to life and liberty guaranteed under Article 21 of the Constitution also comprehends life with dignity. The rights under Article 19 of the Constitution of India are, to some extent, connected with the right to life. In **Maneka Gandhi v Union of India: 1978 (1) SCC 248**, the Supreme Court observed that:

“The law is now settled that no article in Part III is an island but Part of a continent, and the conspectus of the whole part gives the direction and correction needed for interpretation of these basic provisions. Man is not dissectible into separate limbs and, likewise, cardinal rights in an organic constitution, which make man human, have a synthesis. The proposition is indubitable that Art. 21 does not, in a given situation, exclude Art. 19 if both rights are breached.”

32. It follows that although the power of the central government to expel a foreigner is absolute, the exercise of such power cannot be in disregard of procedural fairness. In ***Hasan Ali Raihany v. Union of India: (2006) 3 SCC 705***, the Supreme Court considered the question of procedural fairness in a decision to deport a foreign national who had entered the territory of India on a valid visa. In this regard the court observed as under:

“6. The question that arises for consideration is whether the authorities intend to deport him again and if so, whether they are obliged to disclose to the petitioner the reasons for his proposed deportation.

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8. Having regard to the facts and circumstances of the case, particularly, having regard to the fact that the petitioner has entered this country legally upon the single entry permit issued to him, it is only fair that the competent authority must inform him the reasons for his deportation. If such a decision is taken, the petitioner must be given an opportunity to submit his representation against his proposed expulsion. The competent authority may thereafter consider his

representation and pass appropriate order. As observed by this Court, this procedure may be departed from for compelling reasons of national security, etc. In the instant case, we have not so far noticed any fact which may provide a compelling reason for the State not to observe this procedure.

9. We, therefore, dispose of this writ petition with the directions to the competent authority, who we are told is the Deputy Commissioner of Police and FRRO, Mumbai, to communicate to the petitioner the reasons why he is sought to be deported from this country. The reasons disclosed must be sufficient to enable the petitioner to make an effective representation, if he wishes to do so. The petitioner shall be given two weeks' time to make a representation which shall be considered by the competent authority as soon as possible. Any order passed shall be communicated to the petitioner forthwith."

33. In the present case, the visa issued to the appellants was cancelled prior to its expiry. Undeniably, the Movement Restriction order, does curtail the liberty of the appellants. Thus, it was necessary to comply with the minimum procedural fairness standards. The appellants were required to be informed of the reasons for the said order, and at the very least ought to have been given an opportunity to submit their representation.

34. However, it is not necessary to examine the question in any further detail. We say so because the appellants' visas would have expired in any event. Thus, even if the decision to cancel the visas

is faulted on the ground that it violated the principles of procedural fairness, there is no denying that the same would have expired by efflux of time. And, a foreigner has no right to insist on a visa or its renewal. The right to decline a grant or extension of a visa is clearly an unfettered sovereign right, and it is not necessary for the State to provide any explanation for denying a visa.

35. **In *State of U.P. v. Abdul Samad*: 1962 SCC OnLine SC 40**, the Supreme Court, in the context of deportation of individuals who had continued to stay in India after expiry of their visas, observed as under:

"12. Before proceeding to examine the reasoning of the learned Judges it is necessary to state one matter. In view of the very limited question before us we do not feel called upon to deal with the scope of Article 22(1) or 22(2) or of the two clauses read together in relation to the taking into custody of a person for the purpose of executing a lawful order of deportation which would require to be considered in regard to the detention during what has been stated earlier as the first period. When the question does arise for decision the following circumstances would be among those to be considered before the scope of the constitutional guarantee could be properly determined : (1) An alien has no legal and enforceable right to enter the country and can do so only subject to the permission granted by the executive under our law and when such a person overstays in the country beyond the period for which he is so permitted, the State acting through the executive is entitled to require the alien to quit the country for the mere reason that the period for which he has been permitted to stay has elapsed. (2) That where an alien is taken into custody in pursuance of a valid order of deportation he is not charged with any offence within the meaning of these words in *Collector of*

Malabar v. Ebrahim Hajee [1957 SCR 970] but the State is merely effecting his removal from the country — an act which the alien was himself bound by law to have done. (3) When the Constitution makes a provision for production before a Magistrate, the requirement is not to be treated as any formality but as purposeful and designed to enable the person arrested and detained to be released on bail or other provision made for his proper custody pending the investigation into the offence with which he is charged or pending an enquiry or trial. In the case of a lawful deportation order the Magistrate can obviously pass no order for release on bail or direct any other custody than that of the officers who have to execute the order of deportation.
[emphasis added]

36. We are unable to accept that the appellants have any right to secure a visa, or an extension thereof, or to continue residing in the country after their Visas have been cancelled. In view of the above, we do not find any grounds to interfere with the impugned order.

37. The appeal is accordingly dismissed.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

SD