

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 31.07.2014

+ **W.P.(C) 3582/2014**

KAVNEET KAUR

..... Petitioner

versus

**REGIONAL PASSPORT OFFICE MINISTRY
OF EXTERNAL AFFAIRS**

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr K. Venkatraman.

For the Respondent : Ms Sapna Chauhan.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J (ORAL)

1. The petitioner has filed the present petition *inter alia* praying for setting aside the decision of the Ministry of External Affairs, turning down the request of the Petitioner for including the name of Mr Tej Pal Singh (step-father of the Petitioner) as her in the passport, which was applied for by the petitioner. The letter dated 02.04.2014 issued by the Regional Passport Office, Ministry of External Affairs, communicating the said decision reads as under:

“With reference to the objection raised by this office on your passport application No.DL4067598339214 pointing out the discrepancy/difference in the name of father in your Birth Certificate and other records, the following have been submitted by you as a clarification:

➤ Your Birth Certificate submitted along with the passport application contains the name of your biological father i.e. Mr. Inderjeet Singh and your biological mother i.e. Manmeet Kaur.

➤ After your mother's re-marriage with Mr. Tej Pal Singh, you have been residing with Mr. Tej Pal Singh and Manmeet Kaur as your father and mother.

➤ Your Xth class certificate contains the name of Mr. Tej Pal Singh as your father.

Since you had opted to include Mr. Tej Pal Singh as your father in the passport by swearing in the above facts before a judicial magistrate, your file was referred to CPV Division, Ministry of External Affairs for consideration and directions.

However the Ministry has turned down your request for including of the name of Mr. Tej Pal Singh as your father and gave directions that the passport be issued in the name of your Biological father Shri Inderjeet Singh only, as per your Birth Certificate based on extant norms for issue of passport.

In view of the above, you may modify your application data i.e. your father's name as per your Birth Certificate to enable this office to issue the passport to you."

2. Admittedly, the name of the biological father of the petitioner is Mr Inderjeet Singh and the Birth Certificate of the petitioner also reflects the same. It is asserted that the Petitioner was born out of the wedlock between Inderjeet Singh and Smt. Manmeet Kaur (mother). Subsequently, the marriage between Inderjeet Singh and Smt. Manmeet Kaur was dissolved by a decree of divorce dated 06.03.1997. Thereafter, on 18.04.1999, Smt. Manmeet Kaur married Tej Pal Singh. At the material time, the Petitioner was only 5 years old and was, thereafter, brought up by Mr Tej Pal Singh. It

is submitted on behalf of the petitioner that she has no recollection of Inderjeet Singh and has not met him since the divorce of her biological parents.

3. The Petitioner submits that all the school records, CBSE records (including Secondary School Passing Certificate), PAN card, Aadhaar card, and Election ID card bear the name of Tej Pal Singh as the father of the petitioner.

4. The petitioner had also indicated that she would be satisfied if only the name of her mother was referred to in the passport and this court, by an order dated 21.07.2014, had directed the respondent to take instructions in this regard.

5. The learned counsel for the respondent submits that although there would be no objection to reflecting only the name of the mother in her passport, but the Passport Manual clearly states that no column can be left blank and the passport requires the name of the Father/legal Guardian as well as the name of the mother. The learned counsel for the respondent, contended that, therefore, it would be necessary that the name of petitioner's father be mentioned in the passport.

6. The learned counsel also referred to Clause 4.4 of the Passport Manual, 2010, which is reproduced below:-

“4.4 In the case of (b) above, the name of stepfather/stepmother cannot be written in the passport of children from the previous marriage. The relationship of the child to his biological parents subsists, even after divorce by parents. In such cases, the column of father or mother in the passport cannot also be left blank.

Therefore, such applicants must apply with the names of their biological parents. However, if the stepfather or stepmother is appointed by a Court as legal guardian, the name of such a step-parent can be written as legal guardian.”

7. The learned counsel for the respondent further contended that according to the Passport Manual, 2010, the name of a parent could be replaced by a name of the step parent only in cases where the biological parent had expired. She also referred to para 4(III) of Chapter 8 of the Passport Manual, 2010. The said clause reads as under:

“The name of step-parent can replace the name of father/mother in the passport of the stepchild only in the event of death of biological father/mother.”

8. The limited question that arises in the present petition is that whether in the circumstances of the case, at the time of issuance of the passport, the name of the step-father of the Petitioner can be reflected in the passport of the Petitioner instead of the name of the biological father.

9. In my view, reference to para 4(III) of chapter 8 of the passport manual may not be apposite. The Title of Chapter 8 of the Passport Manual : “Changes in Entries in Passports” indicates that the said chapter only deals with the change of entries in passports which have already been issued. This is not a case where the name of the biological father is being replaced or a change is being made in an existing column in the passport. Therefore, the aforesaid provision will not have a bearing in the present case.

10. The counsel for the Petitioner relied on the decision of Madras High Court in **R.Gayathiri v. Regional Passport Officer: W.P.(C)-14182/2013**

decided on 16.05.2013, wherein the Court in similar circumstances, held as under:

“6. This Court taking note of the fact that the petitioner's educational prospect should not be affected and also that the petitioner is to furnish the passport number within 27.05.2013, so as to enable her to admit in the course in Astro Physics in National University of Singapore, on the basis of fair play, equity and even as a matter of prudence, direct the respondent/Regional Passport Officer, Chennai to receive the passport application of the petitioner and process the said application and to proceed further in regard to the issuance of passport by using the name of step father viz., S.Ravishankar in the passport, in the manner known to law and in accordance with law. Further the said exercise is to be done within a period of one week from the date of receipt of a copy of this order.”

11. Apart from the sentiments expressed by the petitioner that she would not like her biological father's name being reflected in the passport, this court is of the view that reflecting the name of the biological father of the Petitioner in the passport is likely to cause confusion and further complication for the Petitioner as all other documents (except the birth certificate) namely, school records, CBSE records (including Secondary School Passing Certificate), PAN card, Adhar card, and Election ID card reflect Tej Pal Singh as the father of the petitioner. Therefore, it would be expedient if all relevant records reflect the name of Tej Pal Singh as the father of the petitioner.

12. Given the circumstances that it is necessary to have father's name/legal Guardians name reflected in the passport and the fact that all the

records and certificates of the petitioner reflect Tej Pal Singh as the father of the petitioner, the respondent is hereby directed to issue a passport in favour of the petitioner reflecting Tej Pal Singh as her father.

13. This Court is persuaded to pass the present order in the peculiar circumstances of the case where the petitioner asserts that she has been brought up by Mr Tej Pal Singh as a daughter and knows no other person as a father. Further, no prejudice would be caused on any person by including Mr. Tej Pal Singh name as the father of the petitioner.

14. It is, however, clarified that the respondents shall satisfy themselves in all other respects before issuing a passport. This order shall not be construed as a direction to the respondent to issue a passport notwithstanding any other objection. The petition is disposed of in the above terms.

JULY 31, 2014
MK

VIBHU BAKHRU, J