

Court No. - 32

Case :- WRIT - C No. - 40997 of 2023

Petitioner :- Moksha Khanna

Respondent :- Union Of India And Another

Counsel for Petitioner :- Sanjeev Singh, Suresh Bahadur Singh

Counsel for Respondent :- A.S.G.I., Harsh Bardhan Choubey

Hon'ble Salil Kumar Rai, J.

Hon'ble Surendra Singh-I, J.

Heard the counsel for the petitioner and Sri Harsh Bardhan Choubey, the counsel for the respondents.

The present petition has been filed praying for a mandamus commanding the respondent no. 2 i.e., the Regional Passport Officer, Regional Passport Office Complex, Vipin Khand, Gomti Nagar, Lucknow, to consider the application for renewal of passport of the petitioner with File No. LK01C4109247622 allotted on 16.11.2022.

It appears from the records annexed with the writ petition that the case of the petitioner is not being considered because of three First Information Reports were registered against the petitioner. Case Crime No. 0242 of 2020 was registered under Sections 380, 457 of the Indian Penal Code, Case Crime No. 0256 of 2020 was registered under Sections 3(2)(v) SC/ ST Act and 307 of the Indian Penal Code and Case Crime No. 0197 of 2021 was registered under Sections 323, 342, 376, 406, 420, 467, 468, 471, 504, 506 of the Indian Penal Code and it is so claimed by the petitioner and also appears from the records that final reports have been submitted by the police in all the three aforesaid cases. The records indicate that the final report submitted by the police in Case Crime No. 0197 of 2021 has been accepted by the concerned Magistrate vide his order dated 05.08.2022 passed in Case No. 793 of 2022 registered on the final report submitted by the police. However, it also appears from the records that the cases for accepting the final report in the other two cases are still pending before the concerned Magistrate.

In view of the aforesaid, there is no illegality in the act of the passport department in not issuing the passport of the petitioner under clause (f) of sub-section (2) of Section 6 of the Passports Act, 1967. However, in view of the office memorandum dated 10th

October, 2019, No.VI/401/1/5/2019 which provides that the persons against whom criminal cases are pending may be exempted from the operation of Section 6 (2) (f) of the Act, 1967, in case, they produce orders from the court concerned permitting them to depart from India subject to the conditions enumerated in GSR 570 (E) dated 25.08.1993.

The petitioner may take steps for issuance of his passport in accordance with the conditions prescribed in the office memorandum dated 10th October, 2019 and in case, the petitioner fulfills the requirement prescribed in the said office memorandum, the concerned authority shall consider the case of the petitioner for issuance of his passport.

With the aforesaid observation, the writ petition is ***disposed of***.

Order Date :- 5.12.2023

Vipasha