Court No. - 32

Case :- WRIT - C No. - 42579 of 2023

Petitioner :- Avadhesh Kumar Chauhan
Respondent :- Union Of India And 5 Others
Counsel for Petitioner :- Sudheer Kumar Singh
Counsel for Respondent :- A.S.G.I.,Ajit Kumar Srivastava,C.S.C.

Hon'ble Salil Kumar Rai,J.
Hon'ble Surendra Singh-I,J.

The present petition has been filed praying for a mandamus commanding the concerned respondent to decide Passport Application Reference No.23-2003551808 dated 24.9.2023 filed by the petitioner for issuing the passport.

From the pleadings in the petition and the documents annexed with the same, it appears that the passport of the petitioner is not being issued because a criminal case is pending against the petitioner.

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 light of the Office Memorandum dated 10.10.2019, the GSR 570(E) dated 25.8.1993 exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before the criminal court in India if they produce orders from the court concerned permitting them to depart from India, from operation of the provisions of Section 6 (2)(f) of the 1967 Act. Clause 5 (i) of the Office Memorandum dated 10.10.2019 clearly provides that the provisions of GSR 570 (E) may be strictly applied in all cases, which also clarifies that GSR 570 (E) is a statutory notification and hence it forms part of the Rules.

In view of the aforesaid, denying the petitioner passport only on account of pendency of the aforesaid criminal case does not appear to be equitable. However in terms of the provisions contained in the Office Memorandum issued by the Government of India in the Ministry of External Affairs, dated 10.10.2019 and 25.08.1993, the petitioner will have to seek an order from the concerned court.

Accordingly, the appropriate course which legally is available to the petitioner is to approach the court concerned and seek an order permitting the petitioner to depart from India.

In light of the aforesaid, the petition is disposed of permitting the petitioner to approach the competent Criminal Court to seek permission. In case any such application is moved within two weeks from today, the same would be considered and decided by the court concerned, thereafter, the petitioner would be at liberty to press the application for issuing passport before the Passport Authority, which would also be addressed expeditiously in accordance with law.

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

Order Date :- 15.12.2023
IB

Digitally signed by :-
ITU BANERJEE
High Court of Judicature at Allahabad