

INTHE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) no. 2320/2024

CM no. 6205/2024

Changaize Ahmad Khan

...Appellant(s)/Petitioner(s)

Through: Mr. Riyaz Ahmad Khan, Advocate

Vs.

Union of India and others

...Respondent(s)

Through: Mr. T. M. Shamsi, DSGI with Mr. Faizan, CGC

Mr. Syed Musaib, Dy. AG

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
17.12.2024

1. Heard learned counsel for the parties and perused the record on file.
2. Petitioner has filed this writ petition seeking a direction to the respondents to renew/issue the Passport in his favour because they are not renewing/issuing the Passport.
3. Petitioner contends that he is a holder of a valid Passport bearing no.M8177449, issued in his favour by Passport authorities. The passport expires on 25th May 2025. He, as such, well in time, applied for issuance of Passport via proper channel on 2nd June 2024, through Embassy of India at Doha State of Qatar. He is, thus, in Gulf country for last one decade earning his livelihood. His visa is also expiring on 25th January 2025. Non-issuance/renewal of passport, as is stated by petitioner, would incapacitate him to see his family as being newly

wedded couple, besides ailing mother. According to petitioner, despite having applied through proper channel, the CID Department is not forwarding the report to Passport Officer for issuance of Passport which is in violation of rules and regulations, forcing him to file instant writ petition.

4. Reply/objections have been filed by respondents. The stand taken by them is that petitioner's case has not been recommended as his brother, namely, Raja Ishtiaq Khan, had crossed over Line of Control way back in year 2001, where he has married and has not returned back to his native village and his another brother is also involved in unlawful activities.
5. According to learned counsel for petitioner, issuance/renewal of passport cannot be withheld in favour of petitioner for want of CID/police clearance or on the basis of adverse police report vis-à-vis relatives of petitioner. He has relied upon judgements of the Supreme Court in *Satwant Singh Sawhney v. D. Ramrathnam* (1967) 3 SCR 525 and *Monika Gandhi v. Union of India* (1978) 1 SCC 248, to contend that passport cannot be denied on the ground that against some of the relatives of writ petitioner adverse report was found. The Supreme Court vide Order dated 27th September 2021 in Criminal Appeal No.1342/2017 *Vangala Kasturi Rangacharuyulu v. Central Bureau of Investigation*, has held that pendency of criminal case cannot be a ground to refuse renewal of passport.
6. The question arises as to whether the activities of petitioner's brothers/relatives can come in his way for renewal/issuance of his Passport. These reasons spelt out in the reply and submission made by learned

counsel for the respondents cannot dissuade Regional Passport Officer, Srinagar, from issuing Passport in favour of the petitioner. He cannot be deprived of his life and liberty guaranteed under Article 21 of Constitution of India which includes to have a Passport, because of misadventure, if any, of his close relatives. The activities of his brother(s) or any of his relative cannot come in the way of petitioner to refuse him the Passport. The right to travel abroad is an important basic human right, for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship which are the basic humanities which can be affected through refusal of freedom to go abroad and this freedom is a genuine human right; it has been so observed and held by the Supreme Court in *Satish Chandra Verma v. Union of India and others*, 2019 SCC OnLine SC 2048.

7. In view of the above, respondent no.3 to consider the claim of the petitioner for renewal/issuance of the Passport and take a decision in the matter within a period of four weeks.
8. **Disposed of** along with connected CM(s).

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
17.12.2024
“Imtiyaz”