

Serial No. 129 Supplementary List I
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**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP(C) No. 1858/2025
CM 4901/2025**

Safey Khan

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

Through: Mr. Shabir Ahmad Naik, Advocate with
Ms Shazia Bashir, Advocate.

Vs.

**Union of India (Ministry of External Affairs) &
Ors.**

...Respondent(s)

Through: Ms Yasmeen Jan, Assisting Counsel vice
Mr. T. M. Shamsi, DSGI.

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDE R
06.08.2025

(Oral):

1. Through the medium of the instant petition filed under the provisions of Article 226 of the Constitution of India, the petitioner has sought the issuance of writs/directions in the nature of mandamus for commanding the respondents to re-issue the passport in his favor on the basis of his correct date of birth i.e., 22.08.2006, within a stipulated period of time so as to enable him to travel abroad without any sort of inconvenience.
2. The case of the petitioner in a nutshell is that he is a citizen of India and a resident of the Union Territory of Jammu and Kashmir and, as such, entitled under law to invoke the extraordinary writ jurisdiction of this court for protection of his legal, fundamental and other constitutional rights.

That his passport has been issued by the respondents on 03.01.2013 under No. K6503662, which got expired on 02.01.2018, whereafter, the passport was re-issued in his favor on 07.02.2018 with date of expiry as 06.02.2023. That the date of birth of the petitioner in his earlier issued passport came to be reflected as 22.08.2005, when his correct date of birth is 22.08.2006 as per his Matriculation Certificate issued by the Jammu & Kashmir Board of School Education. That he was a minor when his earlier passport came to be applied for and issued on the basis of a document in which date of birth had come to be incorporated incorrectly out of mistake and inadvertence. That since his earlier issued passport has expired, as such, he applied for re-issuance of the same and his application was closed by the respondents 2 & 3 providing that he may apply for a fresh passport with all the documents and required fees, which he did, reflecting his actual date of birth in the application form, but in vain.

That he approached the respondents 2 & 3 with the request to reflect his actual date of birth in his fresh passport in terms of the rules governing the field but they are not reissuing the same. That the online appointment receipt issued by the respondents also indicates that in respect of proof of date of birth, the applicant is required to attach the documents including transfer or school leaving or matriculation certificates issued by a recognized education board, mentioning his date of birth.

That the inaction on the part of the respondents has caused undue delay, adversely affecting his professional opportunities and career prospects as he is not in a position to travel abroad without a correct passport. That the act of the respondents 2 & 3 constitutes a violation of his right to livelihood and professional growth. That the refusal of the respondents to re-issue the passport

in his favor, despite submission of valid documents, violates his fundamental rights under Article 14 and 21 of the constitution of our country.

The said action of the respondents 2 & 3 also denies him equality before law and adversely affects his right to life and personal liberty. That it is a settled position of law that right to travel abroad is facet of personal liberty under Article 21 of the Constitution of our country. That he was a minor at the time when his original passport was applied for and procured by his father and more so, he was suffering from a serious ailment at that time.

That the discrepancy/error, if any, occurred in the original passport of the petitioner cannot be attributed to him. That respondents being public authorities are duty bound to correct such an error on production of authentic date of birth proof such as Matriculation Certification. That the Matriculation Certificate of the petitioner qualifies as most authentic document so far as the date of birth is concerned.

3. Ms. Yasmeen Jan, learned Assisting Counsel appears vice Mr. T. M. Shamsi, learned Deputy Solicitor General of India, for the respondents.
4. Heard the learned counsel for the parties.
5. In the present facts and circumstances of the case, this Court is of the opinion that the matter can be disposed of even at this threshold stage by passing of appropriate orders to direct the respondents 2 & 3 to consider the case of the petitioner in accordance with the law, governing the field.
6. Accordingly, the instant petition is disposed of at this threshold stage with the direction to the respondents 2 & 3 to consider the case of the petitioner for re-issuance of passport in his favor on the basis of the matriculation date of birth certificate issued by the Jammu & Kashmir Board of School Education and other documents needed in that behalf.

7. The respondents 2 & 3 are directed to consider the case of the petitioner within a period of four weeks from the date a copy of this order is served on them or left at their offices.

8. *Disposed of.*

(MOHD YOUSUF WANI)
(JUDGE)

SRINAGAR:

06.08.2025

“Hilal”