

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.38675 OF 2014

ORDER:

The petitioner prays for Mandamus declaring the action of 2nd respondent in not re-issuing passport on the application filed by the petitioner with correct spell check as 'Syed Farhan' instead of 'Syed Farahan' and rectifying the correct date of birth as '12.12.1992' instead of '25.07.1990', as illegal and arbitrary.

It is evident that on the application of petitioner, the 2nd respondent issued passport No.G 7054157. Now the case of petitioner is that the particulars viz., the name and date of birth as entered in the passport need rectification and for that purpose the petitioner has applied to the 2nd respondent. The 2nd respondent, without considering the application and accompanying documents, is insisting upon order from a competent Court or corrected orders issued by the competent authorities to incorporate changes in the passport. According to the petitioner, the said insistence by the 2nd respondent is illegal and unauthorised. The petitioner places strong reliance upon Circular No.VI/401/2/5/2001 dated 29.10.2007 of the Ministry of External Affairs and contends that the 2nd respondent, as a matter of course, shall not insist upon a decree or order from the competent Court and he has discretion to look at the documents submitted by the petitioner and consider issuing the passport with changed particulars. The learned counsel, at the time of hearing, places reliance upon the order of this Court in W.P.No.18860 of 2011 dated 07.07.2011 and prays for a Mandamus on the lines referred to above.

Sri B.Narayan Reddy, learned Assistant Solicitor General, submits that the grant of passport in the case on hand is on the details and documents submitted by the petitioner. The petitioner wants alteration of name and date of birth as referred to above and the Circular dated 29.10.2007 deals with a few contingencies in the

matters of correction to passport already issued. According to him, the relevant portion of circular is as follows:

“Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certified issued by another competent authority i.e., Municipal authorities etc., resulting in conflicting documents for valid proof, the PIA should direct the applicant to procure an order from a First Class Judicial Magistrate, to effect the change as per Passport Manual 2001 (In some States, this function is discharged by Civil Magistrates).”

By placing reliance on the said paragraph, it is strenuously contended that the 2nd respondent cannot be directed now to re-issue a passport with contradictory material and details. The onus is on the petitioner to get these changes/affirmations confirmed by the competent Court or authority. Unless and until this requirement is complied with, the 2nd respondent cannot be compelled to re-issue passport, as prayed by the petitioner.

I have heard learned counsel for the petitioner and also perused the material available on record.

The circular refers to various contingencies in which the passport authority can consider re-issuing a passport with amendments. Admittedly, the case on hand falls under Clause (d) of the circular dated 27.10.2007. The tenor of Clause (d) is that where the original issue of passport was on the details and documents submitted by the petitioner, no exception can be taken if the passport authority insists upon following the requirements referred to in Clause (d) of the circular. The re-issue of passport is not automatic under the circular. The 2nd respondent has to apply its mind to the facts and circumstances of each case and accordingly direct the applications to produce proof in support of their assertions. In the opinion of this Court, no exception can be taken to the insistence of 2nd respondent to produce appropriate orders from the competent Court or authority to

carry out changes to passport already issued. In the case on hand, the proposed changes relate to name and date of birth and certainly these are basic details in a passport and this Court cannot compel consideration of petitioner's grievance with the documents filed along with application. I see no illegality or irregularity in the said insistence.

The writ petition is, accordingly, dismissed. There shall be no order as to costs.

This Court is not expressing its view on the other options the petitioner has within the four corners of law.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

S.V. BHATT, J

20th January, 2015

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