

\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 543/2015

VIBHU KALRA

..... Petitioner

Through: Mr Ravi Shankar Kumar, Adv.

versus

REGIONAL PASSPORT OFFICE, DELHI

..... Respondent

Through: Ms Jyoti Dutt Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **15.04.2015**

1. This is a writ petition whereby the petitioner seeks issuance of passport based on the information given in the application filed by him for that purpose.

2. The short point, involved in the writ petition is, whether the respondent's insistence on inclusion of the name of the petitioner's biological mother, namely, one, Ms Suparna Kalra, in the passport, which it intends to issue to the petitioner, is in order. There is no dispute that the petitioner was borne from the wedlock between Mr Vikram Kalra and Ms Suparna Kalra.

2.1 The date of birth of the petitioner is 06.07.1994. The birth certificate issued, records the names of the biological parents, i.e., Ms Suparna Kalra and Mr Vikram Kalra. The certificate issued in this behalf, under Section 17 of the Registration of Birth and Deaths Act, 1969, is dated, 11.07.1994.

3. To be noted, the marriage of the biological parents of the petitioner stood dissolved under the provisions of Section 13B of the Hindu Marriage

Act, 1955 vide a decree dated 26.09.2005. This decree was passed, as is obvious, based on mutual consent.

3.1 An averment has also been made in the writ petition that the custody of the petitioner, at the relevant point in time, was given to his father by the Competent Guardian, Delhi vide order dated 10.05.2001, passed in a case No. G.25/1999.

4. It is further averred in the writ petition that on 14.01.2008, the petitioner's father Mr Vikram Kalra married, one, Ms Shalini Kalra. The petitioner further avers that, along with Mr Vikram Kalra, Ms Shalini Kalra has been looking after his needs and has provided the necessary love and affection of a parent which, according to him, has not been extended by his biological mother. It is in these circumstances that the petitioner seeks inclusion of the name of his stepmother, Ms Shalini Kalra, in the passport which the respondent intends to issue to him.

5. I may only note that, in the certificate issued by the Central Board of Secondary Education (CBSE), to the petitioner, the name of Ms. Shalini Kalra, along with that of Mr. Vikram Kalra, stands included.

6. Since, respondent did not do the needful, as indicated in the petitioner's application a legal notice was got issued to the respondent. The said legal notice is dated 25.08.2014. In the legal notice, reference was made to the judgement dated 31.07.2014, passed in WP(C) No. 3582/2014, titled ***Ms. Kavneet Kaur vs Regional Passport Office, Ministry of External Affairs*** passed by this court.

7. As there was no movement in the matter, the petitioner approached this court by way of a writ petition, which was, numbered as WP(C) No. 6495/2014. The said writ petition was disposed of on 24.09.2014, whereby

respondent was directed to pass a speaking order after considering the contentions of the petitioner. A time frame of four weeks was given to the respondent for the said purpose.

8. It appears that, pursuant to the said order, the respondent replied to the petitioner vide communication dated 17.10.2014. The objections that the respondent has, in respect of the relief sought for by the petitioner, are contained in the said communication. For the sake of convenience the same are extracted hereinbelow:

“....(i) Your Birth Certificate submitted alongwith the passport application contains the name of your biological mother i.e., Ms. Suparna Kalra and your biological father as Mr Vikram Kalra.

(ii) The name of your step-mother Ms Shalini Kalra is mentioned in your school certificate.

(iii) However, you have not been able to provide a **“Registered”** Adoption Deed indicating that Ms Shalini Kalra is your adoptive mother....”

9. There is no dispute that, there is no adoption deed executed in the matter. However, there is no reason to doubt; a fact which is backed by an affidavit filed by the petitioner, that the petitioner’s father, Mr Vikram Kalra, married the second time, and that, Ms Shalini Kalra, is therefore, the petitioner’s stepmother.

9.1 In so far as the other aspects are concerned, as indicated above, there is no dispute that the birth certificate includes the name of the biological mother, i.e., Ms Suparna Kalra, along with that of the biological father, i.e., Mr Vikram Kalra. The objections, as is obvious from the extract culled out above, reiterate the fact that the school certificate includes the name of the step mother, Ms Shalini Kalra.

10. In these circumstances, the issue which arises is : whether the respondent ought to issue a passport in favour of the petitioner with the name of the step mother being included in place of the name of the biological mother.

10.1 The facts arising in the present case are quite similar to those which arose in *Kavneet Kaur* case. The learned Judge, while disposing of the matter made the following observations, which are relevant for the present case:

“..... 8. The limited question that arises in the present petition is that whether in the circumstances of the case, at the time of issuance of the passport, the name of the step-father of the Petitioner can be reflected in the passport of the Petitioner instead of the name of the biological father.

9. In my view, reference to para 4(III) of chapter 8 of the passport manual may not be apposite. The Title of Chapter 8 of the Passport Manual : “Changes in Entries in Passports” indicates that the said chapter only deals with the change of entries in passports which have already been issued. This is not a case where the name of the biological father is being replaced or a change is being made in an existing column in the passport. Therefore, the aforesaid provision will not have a bearing in the present case.

10. The counsel for the Petitioner relied on the decision of Madras High Court in *R.Gayathiri v. Regional Passport Officer*: W.P.(C)-14182/2013 W.P.(C) 3582/2014 Page 5 of 6 decided on 16.05.2013, wherein the Court in similar circumstances, held as under:

“6. This Court taking note of the fact that the petitioner's educational prospect should not be affected and also that the petitioner is to furnish the passport number within 27.05.2013, so as to enable her to admit in the course in Astro Physics in National University of Singapore, on the basis of fair play, equity and even as

a matter of prudence, direct the respondent/Regional Passport Officer, Chennai to receive the passport application of the petitioner and process the said application and to proceed further in regard to the issuance of passport by using the name of step father viz., S.Ravishankar in the passport, in the manner known to law and in accordance with law. Further the said exercise is to be done within a period of one week from the date of receipt of a copy of this order.”

11. Apart from the sentiments expressed by the petitioner that she would not like her biological father’s name being reflected in the passport, this court is of the view that reflecting the name of the biological father of the Petitioner in the passport is likely to cause confusion and further complication for the Petitioner as all other documents (except the birth certificate) namely, school records, CBSE records (including Secondary School Passing Certificate), PAN card, Adhar card, and Election ID card reflect Tej Pal Singh as the father of the petitioner. Therefore, it would be expedient if all relevant records reflect the name of Tej Pal Singh as the father of the petitioner.

12. Given the circumstances that it is necessary to have father’s name/legal Guardians name reflected in the passport and the fact that all the W.P.(C) 3582/2014 Page 6 of 6 records and certificates of the petitioner reflect Tej Pal Singh as the father of the petitioner, the respondent is hereby directed to issue a passport in favour of the petitioner reflecting Tej Pal Singh as her father.

13. This Court is persuaded to pass the present order in the peculiar circumstances of the case where the petitioner asserts that she has been brought up by Mr Tej Pal Singh as a daughter and knows no other person as a father. Further, no prejudice would be caused on any person by including Mr. Tej Pal Singh name as the father of the petitioner.....”

10.2 Though the learned Judge says that the directions contained in that case were being issued in “peculiar circumstances”, the circumstances in this

case are no different. The peculiarity continues to obtain in this case as well. The school certificate, admittedly, includes the name of the step mother, i.e., Shalini Kalra. The petitioner's father married Ms Shalini Kalra in January, 2008 and since then, the petitioner claims, that he has been looked after by Ms Shalini Kalra and his biological father, Mr Vikram Kalra.

11. In these circumstances, I find no difficulty in issuing a direction to the respondent to process the application of the petitioner for issuance of passport with a request that the name of his step mother, Ms Shalini Kalra, be included, in the column pertaining to the mother's name. Needless to say, the respondent will satisfy itself with regard to any other pre-requisite that would be required to be fulfilled by the petitioner, as per the extant provisions of law. Though I may also indicate that the only objections, that the respondent has taken are those, which are culled out hereinabove.

12. The needful will be done within three weeks from today.

13. The writ petition is disposed of with the aforesaid directions.

RAJIV SHAKDHER, J

APRIL 15, 2015

kk