

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

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Date of decision: 30th November, 2015

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W.P.(C) No.11070/2015

BOOTA SINGH JOHAL

..... Petitioner

Through: Mr. Kirti Uppal, Sr. Adv. with Mr.
Vishesh Wadhwa, Mr. Shrey Chathly
& Mr. Sidharth Chopra, Advs.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Manish Mohan with Ms. Sidhi
Arora & Mr. Debajyoti Behuria,
Advs. for UOI.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

CM No.28642/2015 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

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3. The petition impugns the order dated 9th September, 2014 of the respondent no.2 Joint Secretary (PSP) & Chief Passport Officer, New Delhi dismissing the appeal preferred by the petitioner against the letter dated 29th January, 2014 of the respondent no.3 Passport Officer, Jalandhar, Punjab

intimating to the petitioner the decision not to issue passport to the petitioner for a period of five years i.e. up to 7th January, 2016.

4. It is the case of the petitioner, i) that he had on a passport earlier issued to him travelled to United States of America (USA) where he remained from 26th July, 1994 till the year 2011 i.e. even after the expiry of his passport and without a proper passport; ii) that he approached the United States authorities and applied for political asylum but which was denied and the petitioner was forced to return to India on an Emergency Certificate on 8th June, 2011; iii) that on his return to India, he applied for re-issue of his passport, disclosing all the aforesaid facts; iv) that however his application was rejected vide letter dated 29th January, 2014 supra on the ground that he, by seeking political asylum in USA, had violated the declaration made by him while obtaining the earlier passport that “I owe allegiance to the sovereignty, unity and integrity of India and have not voluntarily acquired citizenship or travel of any other country. I have not lost, surrendered or been deprived of citizenship of India” and a decision had thus been taken not to issue passport to the petitioner for five years from the date of his deportation i.e. till 7th June, 2016; v) that he preferred a statutory appeal but the Appellate Authority vide impugned order dated 9th September, 2014 has

dismissed the appeal of the petitioner on the ground that by applying for asylum before a foreign government, the petitioner had compromised the prestige of the nation; vi) that his sister is a citizen of USA for the last 40 years and had in accordance with the United States laws / Policies applied for issuance of immigration visa to the petitioner and the National Visa Centre of USA has vide letter dated 6th August, 2014 invited the petitioner and his family for a visa interview for the grant of immigration visa and the petitioner urgently needs a passport therefor.

5. Though the petition has come up before this Court for the first time but finding the legal question entailed to be no longer *res integra*, it is not deemed appropriate to issue formal notice of the petition, invite counter affidavits and thereafter hear the parties and dispose of the petition. It is also felt that if any delay is caused in the disposal of the petition, the reason for which the petitioner has filed this petition inspite of the period for which the petitioner has been denied passport expiring after just six months, would be rendered infructuous.

6. A Coordinate Bench of this Court in ***Kulvir Singh Vs. Union of India*** and other connected petitions 2015 (147) DRJ 295 has held that though the

action of a citizen of India in applying for political asylum may result in bad publicity for our country but that does not mean that the same is prejudicial to the sovereignty and integrity of India” and cannot be considered as a ground for denying passport.

7. The counsel for the respondents appearing on advance notice is not able to point out any ground / reason for which the aforesaid dicta would not apply to the facts of the present case. All that he can say is that in LPA No.210/2015 titled *Union of India Vs. Inderdeep Chumber* against a similar order of a Single Judge of this Court, notice has been issued by the Division Bench and the appeal is pending.

8. Even if I were to disagree with the view taken by the Coordinate Bench in *Kulvir Singh* supra, the only option available would be to refer the matter to the Division Bench. Instead of that it is deemed appropriate to follow *Kulvir Singh* supra and to allow the present petition. The respondents if so desire can prefer an appeal to the Division Bench and have the matter tagged along with *Inderdeep Chumber* supra.

9. Accordingly, the petition is allowed. The impugned orders are set aside and the respondents are directed to process the application of the petitioner for issuance of passport.

No costs.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 30, 2015

‘gsr’

(corrected & released on 4th January, 2016)