

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 16577 of 2014
DATE OF DECISION :- June 30, 2016**

Sahar Gharachorloo

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

Present:- Mr. Ashwani Chopra, Sr. Advocate
with Ms. Shreya Puri, Advocate for the petitioner.

Mr. Shivoy Dhir, Advocate for UOI.

M.JEYAPPAUL, J.

1. The Writ Petitioner was born on 3.9.1976. She came to India to carry on her educational pursuit in 1996 on study Visa. She married on 25.12.2004 at Gurudwara in Sector 46, Chandigarh during the time when she was still a student. She graduated in Human Resources Management in 2006. After her marriage, she started working with a company at Chandigarh. She was granted residential permit under the Foreigners Order, 1948. Due to some matrimonial discard, her husband re-married after adhering to Talaknama under the Muslim law. She has challenged the Talaknama by filing a civil suit.

2. The petitioner applied for citizenship by naturalisation as she has been in India ever since 1996. Her application was duly entertained by the respondents. The petitioner was informed vide communication dated 25.3.2013 that her application shall be accepted for registration as a citizen

of India subject to fulfilment of two conditions. The petitioner applied through the State for renunciation of her present nationality. She was informed by Islamic Republic of Iran, New Delhi that her request has already been received. The petitioner was not given Indian citizenship as the original renunciation certificate was not produced. The petitioner wishes to renounce her Iranian citizenship. Though she applied about ten months ago for renunciation of her citizenship she had not received any communication from the Islamic Republic of Iran.

3. The petitioner has sought a mandamus directing the respondents to grant Indian citizenship by naturalisation under Section 6(1) of the Citizenship Act, 1955 without insisting for the letter of renunciation of the country of birth of the petitioner.

4. Annexures P10, P11, P13 and P14 are relevant documents to determine the issues involved in this case. Government of India took up the request of the petitioner for grant of Indian citizenship by naturalisation under Section 6 (1) of the Citizenship Act, 1955 and after due consideration, it informed the Home Secretary, Chandigarh Administration on 25.3.2013 (Annexure P10) that the application of the petitioner for grant of Indian citizenship by naturalisation under Section 6 (1) of the Citizenship Act, 1955 was accepted. The petitioner would be formally registered a citizen of India subject to the fulfilment of the following two conditions :-

“i. Renounce her present nationality (within a period of six months from the date of issue of this letter failing which the applicant will be required to obtain fresh approval from this Ministry) by making an application to the concerned Mission of her country in India in accordance with the law of that

country.

ii. Deposit the fee prescribed for such naturalisation viz Rs.13750/- creditable to the Ministry of Home Affairs receipt Head No. "0070-Other Administrative Services-Other Services-receipts under Citizenship Act" in the State Bank of India through Treasury Challan which will be adjustable by the Pay & Accounts Officer, Ministry of Home Affairs, New Delhi.

5. It appears that the writ petitioner had already deposited the prescribed fee as directed in the above communication but as far as the 1st primary requirement is concerned, it is her contention that she had made application to the Embassy of Islamic Republic of Iran, New Delhi. But letter of renunciation of nationality was not received from the Islamic Republic of Iran.

6. Learned Senior Counsel for the writ petitioner submitted that as per the 1st requirement she had to make an application to the Embassy of Islamic Republic of Iran to renounce her present nationality. Islamic Republic of Iran do not bother about the dual citizenship the petitioner may possess, as dual citizenship is legally permissible in Iran. Therefore, accepting the renunciation of present nationality by the writ petitioner through affidavit and her solemn affirmation to bear faith to the Constitution of India, the respondents may consider her plea for granting Indian citizenship.

7. Per contra, learned counsel appearing for the respondents submitted that Government of India cannot approve dual citizenship. Unless the petitioner produces certificate renunciation of present Iranian citizenship, the question of granting Indian citizenship to the petitioner does

8. I carefully perused the conditions imposed by Government of India while accepting the application submitted by the petitioner for grant of Indian citizenship by naturalisation. The 1st condition clearly postulates that she should renounce her present nationality before ever getting Indian citizenship by naturalisation. The mode of renunciation of her present nationality has been communicated by the Government of India to the effect that she shall make an application to the Mission concerned of her country in India. In other words, mere submission of an application to the Embassy of Islamic Republic of Iran can by no stretch of imagination be considered as fulfilment of the 1st primary condition imposed by the Union of India.

9. Only under the above facts and circumstances, it is found that Government of India under Annexure P13 insisted that the petitioner should file original renunciation certificate. Under Annexure P14 she has in fact submitted to the Ministry of Home Affairs, New Delhi that she had applied for the renunciation certificate and she has been following it up with the Iranian Embassy.

10. The question of permitting dual citizenship by Government of India against the spirit of the Constitution of India does not merit consideration. Islamic Republic of Iran has also not communicated in writing that dual citizenship is the law in vogue in the Islamic Republic of Iran. Even if Islamic Republic of Iran do not mind possession of dual citizenship by its citizen, Government of India has the discretion to reject the case of the writ petitioner, unless the certificate of renunciation required by the Government of India is not produced from the Islamic Republic of Iran. On a perusal of the records it is found that Embassy of Islamic Republic of Iran, New Delhi under Annexure P11 having accepted the fact

that the writ petitioner in fact submitted an application for renunciation of her citizenship of Islamic Republic of Iran reported that her request was already sent to the authorities concerned of the Islamic Republic of Iran and it might take time for clearance of her permission. In the face of the information furnished by the Embassy of Islamic Republic of Iran, New Delhi under Annexure P11, it is found that Islamic Republic of Iran is yet to take a decision on the application submitted by the writ petitioner.

11. Under the above circumstances, I am of the considered view that the present Writ Petition filed by the writ petitioner to direct the respondents to grant Indian citizenship by naturalisation under Section 6 (1) of the Citizenship Act, 1955 without insisting for letter of renunciation of the country of her birth is not at all sustainable. Therefore, the Writ Petition stands dismissed.

(M. JEYAPPAUL)
JUDGE

June 30, 2016
p.singh