

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 20958 of 2016 (O&M)

Date of Decision: March 8, 2017

Gurinder Singh

.....Petitioner

Vs.

Union of India and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.B.S. Sidhu, Advocate
for the petitioner.

Mr. Varun Issar, Advocate for respondents No.1 and 2.

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M.M.S. BEDI, J.

Misc. applications are allowed. Written statement along with annexures are permitted to be taken on record.

The petitioner has invoked the extra-ordinary jurisdiction of this Court by filing present writ petition under Articles 226/227 of the Constitution of India for setting aside the order annexure P-3 dated May 4, 2016 passed by the Regional Passport Officer, Amritsar. The petitioner has also sought the following corrections in his passport:-

	Correction sought	Incorrect entry
Father’s Name	Ravail Singh	Rewail Singh
Mother’s Name	Kamaljeet Kaur	Kanwaljit Kaur
Place of Birth	Amritsar	Mianey Amritsar.

The petitioner claims that the above said entries are incorrect entries in his passport, copy of which has been appended as annexure P-1. Petitioner applied to respondent No.2 for correction of the above said mistakes in the passport by attaching all the requisite documents with correct spelling vide application dated April 25, 2016 along with affidavit annexure P-2. His application was rejected on May 4, 2016 mentioning therein that “as per Ministry of Law, deceased parents’ name are not permissible? Rejected.” Copy of the said order dated May 4, 2016 has been appended as annexure P-3.

In order to establish the correct name of father, mother and place of birth, the petitioner has placed on record the following documents:-

- “i) Copy of Birth Certificate of petitioner;
- ii) Copy of Middle Standard Examination of petitioner.
- iii) Copy of Matriculation Certificate of petitioner.
- iv) Copy of Voter I-Card of petitioner.
- v) Copy of Aadhar Card of petitioner.
- vi) Copy of Death certificate of father of petitioner.
- vii) Copy of Death certificate of mother of petitioner.

viii) Copy of passport of father of petitioner.

ix) Copy of passport of mother of petitioner.

Copies of these documents have been placed on record as annexures P-4 to P-14. All the documents placed on record by the petitioner are the documents which are prepared by the officials in the ordinary course of business.

In the reply filed on behalf of respondents No.1 and 2, the petition has been contested on the ground that the petitioner had obtained three passports with same parents name and place of birth and at no stage he pointed out the mistakes as alleged and further has been using the passport to travel abroad. A preliminary objection has been raised that on June 14, 2000, the petitioner had applied for the passport for the first time mentioning his parents name and place of birth as existing in present passport. Copy of the form has been placed as annexure R-1. Thereafter on police verification report, his parents name and place of birth as depicted in Annexure R-1 were confirmed. On April 11, 2002, petitioner applied for re-issue of passport in lieu of earlier passport again mentioning the same particulars. The second passport was issued on August 29, 2002 bearing No. E1516266. The petitioner had applied for new booklet at High Commission of India at London in lieu of passport No. E1516266 and obtained passport bearing No. H7762235 dated April 28, 2010 valid upto April 27, 2020 with same particulars. For 17 years, the petitioner remained mum as such he cannot be permitted to correct the spellings of the deceased parents or the place of

birth. Reliance has been placed on Passport Manual Act, 2010, wherein pertaining to change in name of deceased parents, para 4.2 debars the change of name, wherein the legal heir of deceased cannot change the name of deceased.

I have heard counsel for the petitioner as well as counsel for the respondents.

Counsel for the respondents has relied upon the judgment of **Jayakumar Vs. Regional Passport Officer**, 2015 (3) RCR (Civil) 1001 wherein it was observed that the passport issued by the sovereign State is the property of the State under Section 17 of the Passports Act, 1967. The details entered therein cannot be lightly interfered with, that too after very many years without any sustainable cause and without any explanation as to why initially such a wrong declaration was made and why now a change is sought.

After hearing counsel for the parties, I am of the considered view that delay generally defeats discretion and the laws of limitation destroys the remedies itself but before applying the said principle, the facts and circumstances of each case are required to be seen. The change in the name of parents in any certificate is a serious issue and cannot be considered lightly but there is no absolute bar in getting bonafide corrections made if the attending circumstances satisfy the judicious conscious of the Court or the Administrative Authorities or the Passport Authorities to correct the particulars. Many a times, the malafide to get the particulars of the parents

changed is suspicious and the oblique objective is apparent. There may be few occasions when under the garb of getting the particulars of parents and address changed, an applicant, with oblique motive may make an endeavour to conceal and avoid any illegality. For instance, a person may be debarred to travel with certain particulars on account of some wrong/ illegality committed as per the public records. It may be a case where a person wants to change the name of the parents with an objective to grab the property of some other person. As such no straight jacket formula can be laid down as to under what circumstances, the correction in the address and parents name should be allowed or rejected. A judicial notice can be taken that many Indian names are spelt differently in English but if pronounced they sound similar. The words ‘Ravail Singh” and ‘Kamaljeet Kaur’ which are Indian Punjabi names, sound same as “Rewail Singh” and “Kanwaljit Kaur. As the names mentioned in the passport and the names which are required to be incorporated are homophones i.e. the words which sound similar but are spelt differently and there is no malafide attributed to the petitioner, the correction can be allowed. Besides this, the petitioner has produced copy of his Birth Certificate; copy of Middle Standard Examination of petitioner; copy of Matriculation Certificate of petitioner; copy of Voter I-Card of petitioner; copy of Aadhar Card of petitioner; copy of Death certificate of father of petitioner; copy of Death certificate of mother of petitioner; copy of passport of father of petitioner; copy of passport of mother of petitioner which indicate the correct parentage and place of birth of the petitioner as

such corrections can be permitted to be made in the parents name and the place of birth as the word ‘Mianey Amritsar’ will not make the place of birth different from ‘Amritsar’ as district remains the same. Place of birth ‘Mianey Amritsar’ may not be of much relevance if seen in the World Map.

I am satisfied that the documents i.e. the birth Certificate annexure P-4, middle standard examination certificate, annexure P-5, matriculation certificate annexure P-6, voters card Annexure P-7, aadhar card annexure P-8 and the death certificates of father and mother of the petitioner annexures P-9 and P-10 bear the correct name of the parents of the petitioner.

In view of the above said circumstances, the petition is allowed. Order annexure P-3 dated May 4, 2016 is hereby set aside. A direction is issued to respondent No.2 to make the requisite corrections. However, as an abundant caution, to curtail the misuser of the original passport with alleged incorrect particulars, the same should be surrendered with the appropriate authority in lieu of the passport issued with correct particulars.

March 8, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.