

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.23005 of 2016

Date of Decision: November 21, 2017

Satwinder Singh

. . . . Petitioner

Vs.

Union of India and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Navkiran Singh, Advocate,
for the petitioner.

Mr.Chetan Mittal, Sr. Advocate, with
Mr.Vikrant Pamboo, Advocate,
for respondents No.1 & 2/UOI.

Ms.Sunint Kaur, AAG, Punjab.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is directed against the order dated 7.7.2016 by which the application made by the petitioner for renewal of his passport in lieu of passport No.F3711659 dated 05.08.2005 issued by the Embassy of India (Consular & Visa Division), Vienna, Austria, which was valid till 04.03.2009 (F), has been rejected on the ground that the petitioner was involved in shootout case in the year 2009 in which he was convicted on the charge of 'attempted coercion' for which he was sentenced and that the Mission declined the passport to the petitioner under Section 5(2)(c) of the Passport Act, 1967 [for short 'the Act']. However, the case of the petitioner was considered for the issuance of Emergency Certificate so that he may return back to India.

Learned counsel for the petitioner, *inter alia*, contends that the passport can be refused only in terms of the provisions of Section 6(2)(e) of the Act. It is submitted that the petitioner was convicted in Austria and released in

September, 2010. Thereafter five years have passed and now he is entitled and eligible to apply for the renewal of the passport.

During the course of hearing, learned counsel for the respondents has submitted that the writ petition is not maintainable because the petitioner has a remedy of statutory appeal in terms of Section 11 of the Act in which it is provided that the appeal would lie against the order passed under Section 5(2)(c) of the Act.

Faced with this difficulty, learned counsel for the petitioner prays for withdrawal of the petition in order to avail the remedy of appeal. However, at the same time, he has prayed that in case the appeal is filed by him, the Appellate Authority may be directed to consider the appeal and decide the same within the period prescribed by this Court.

Learned counsel for the UOI has not joined the issue in this regard.

Consequently, the present petition is hereby dismissed as withdrawn with liberty to the petitioner to avail his remedy of appeal under Section 11 of the Act. In case such an appeal is filed within one month from the date of passing of this order, the Appellate Authority shall entertain the appeal, without raising the question of delay and shall try and decide the same as early as possible preferably within a period of four months from the date of receipt of appeal.

NOVEMBER 21, 2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No