

CWP No.222 of 2017 (O&M)

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

**CWP No.222 of 2017 (O&M)**

**Date of decision:05.09.2017**

Nitin Garg

...Petitioner

Versus

Union of India and another

...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain**

**Present:** Mr. Kanwaljeet Singh, Senior Advocate, with  
Mr. Abhishek Bajaj, Advocate, for the petitioners.

Mr. Indresh Goel, Advocate,  
for the respondents.

Mr. Swapanh Shaorey, Advocate,  
Legal Aid Counsel for complainant Neha.

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**Rakesh Kumar Jain, J.**

The petitioner has challenged the order dated 04.02.2016 by which his passport has been revoked.

In brief, the petitioner was issued passport No.A-8845342 on 12.06.2000 by the Regional Passport Office (RPO), Chandigarh. He travelled to the United States of America (USA) on this passport in 2003. He got married to Neha Garg in October, 2006. He stayed with his wife Neha Garg in USA for about 4 years. The petitioner was re-issued passport No.J-1172253 dated 26.04.2010 in lieu of his earlier passport No.A-8845342. At the time of renewal, the petitioner did not disclose the name of his wife and, thus, it was not included in his passport No.J-1172253. The petitioner, along with his wife, came back to India in August, 2010 on passport No.J-1172253 but after a few weeks, he returned to USA and is there since then. Neha Garg, wife of the

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petitioner, lodged FIR No.144/2012, under Sections 498A, 406, 506 & 34 of the IPC at Police Station, Sirsa City against the petitioner, her parents-in-law, sister-in-law and two others. She also made a complaint to the RPO, Chandigarh to issue show cause notice to the petitioner, as a result of which, show cause notice dated 22.06.2012 was issued to the petitioner. The RPO, Chandigarh also received a letter dated 05.07.2012 from the National Commission for Women about the complaint of Neha Garg against the petitioner of deserting her in India and taking away her passport while going to USA and from the Punjab State Commission for Non-Resident Indians. Ultimately, the Passport Officer, vide his order dated 24.08.2012, decided to impound the passport No.J-1172253 of the petition on the ground of suppression of material information, in terms of Section 10(3)(b) of the Passports Act, 1967 (hereinafter referred to as the “Act”) and directed him to submit his passport No.J-1172253 to the RPO, Chandigarh. However, based on the explanation submitted by the petitioner, the RPO revoked the order dated 24.08.2012 vide his authority No.USASP0550810/13 dated 18.11.2013.

In the meantime, in the proceedings initiated on the basis of the FIR lodged by Neha Garg, final report was submitted by the prosecution, in which only the petitioner was charge-sheeted. Thereafter, the Court has declared the petitioner a proclaimed offender vide order dated 18.09.2012.

Thereafter, Neha Garg lodged her grievances on 04.01.2015 and on 13.01.2015 on the Public Grievances Portal of the Department of Administrative Reforms and Public Grievance of the Government of India regarding suppression of marital status by the petitioner for obtaining passport No.J-1172253 from the Consulate General of India, San Francisco and also

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with the Director of Public Grievance in the Ministry of External Affairs with a request to revoke the passport of the petitioner. The RPO issued show cause notice dated 05.02.2015 to the petitioner, asking him to submit the status of the court case, to which the petitioner did not file any reply and vide his order dated 27.02.2015, his passport No.J-1172253 was revoked under Section 10(3)(e) of the Act.

Aggrieved against the aforesaid decision, the petitioner preferred an appeal through his father on 24.08.2015 before the Chief Passport Officer (CPO) and during the pendency of appeal, also filed Writ Petition No.111927 of 2015 before the Delhi High Court. The said writ petition was disposed of on 21.12.2015 with a direction to the CPO to dispose of the appeal expeditiously, preferably within six weeks of the communication of the Court order.

Neha Garg sent a letter dated 12.07.2015 to the CPO, updating him with the status of the ongoing criminal case against the petitioner and also enclosed copies of the arrest warrant dated 04.03.2015 issued by the Judicial Magistrate 1<sup>st</sup> Class, Sirsa. She also sent a letter to the Superintendent of Police, Sirsa, dated 14.07.2015, giving a reference of the arrest warrant, with a request that the petitioner's passport be revoked.

The petitioner pleaded before the CPO that his marriage with Neha Garg was dissolved by the District Court of Lancaster County, Nebraska, USA in case No.CI131822 titled as "Nitin Garg vs. Neha Garg. However, the said decree of dissolution was *ex-parte*.

Be that as it may, the CPO dismissed the appeal of the petitioner vide the impugned order in view of the pendency of the proceedings in the criminal case before the Court of Judicial Magistrate 1<sup>st</sup> Class, Sirsa, in which

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arrest warrant of the petitioner has been issued and also because of suppression of his marital status in terms of Section 10(3)(b) & (e) of the Act.

Counsel for the petitioner has submitted that the suspension order of the passport of the petitioner was revoked on 18.11.2013. He has been granted anticipatory bail under Section 438(2) of the Code of Criminal Procedure, 1973 vide order dated 19.07.2017 passed by this Court in Criminal Misc. No.M-25551 of 2017. It is also submitted that if the petitioner has not appeared in response to the summons, then passport should not be revoked and has referred to a Division Bench judgment of the Delhi High Court, rendered in the case of **Lalit Kumar Modi vs. Union of India and others**, 2014(49) R.C.R. (Civil) 415. He has also referred to two decisions of this Court rendered in the cases of **Narotam Puri vs. Union of India and others**, 2016 (4) R.C.R. (Civil) 344 and **Sahib Jaskaran Singh vs. Union of India and others**, 2016(2) R.C.R. (Criminal) 798 to contend that the passport cannot be cancelled merely on the ground of pendency of the FIR and that the cancellation report submitted by the police has not yet been accepted by the Trial Court.

On the other hand, counsel for the respondents have submitted that there is no error in the impugned orders passed by the RPO and the CPO and has referred to Section 10(3)(b) & (e) of the Act, which read as under:-

**“10. Variation, impounding and revocation of passports and travel documents.--**

(1) & (2)        xxx                    xxx                    xxx                    xxx

(3)        The passport authority may impound or cause to be impounded or revoke a passport or travel document,

(a)                    xxx                    xxx                    xxx                    xxx

(b)        if the passport or travel document was obtained by the suppression of material information or on the basis of wrong

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information provided by the holder of the passport or travel document or any other person on his behalf:

Provided that if the holder of such passport obtains another passport, the passport authority shall also impound or cause to be impounded or revoke such other passport.

(c) & (d)        xxx                xxx                xxx                xxx

(e)        if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India;”

In the present case, the order dated 18.11.2013 was only regarding revocation of suspension of the petitioner's passport as by that time, his passport was not revoked. However, the Passport Authority had finally found that there was no reason for the petitioner to have concealed his marital status at the time of obtaining passport No.J-1172253 from the Consulate General of India, San Francisco, USA because at that time, the marriage of the petitioner with Neha Garg was subsisting. The petitioner was clearly found guilty of *suppressio veri suggestio falsi*.

Secondly, it is submitted that the petitioner has been charge sheeted in the FIR registered against him, pending in the Court of Judicial Magistrate 1<sup>st</sup> Class, Sirsa, in which he has been absconding and has been declared a proclaimed offender. Therefore, the passport has rightly been revoked under Sections 10(3)(b) & (e) of the Act.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that there is no error in the orders of the RPO and the CPO, by which passport of the petitioner has been revoked, while resorting to the provisions of Section 10(3)(b) & (e) of the Act because the petitioner has deliberately concealed the factum of his marital status at the time of obtaining passport No.J-1172253 on 26.04.2010 from the

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Consulate General of India, San Francisco, USA, issued in lieu of his earlier passport No.A-8845342 issued by the RPO, Chandigarh. Section 10(3)(b) of the Act deals with such a situation where the passport is obtained by concealment of material information and the Passport Authority has the jurisdiction to revoke the same.

Insofar as the applicability of Section 10(3)(e) of the Act is concerned, it is an admitted fact that the criminal case is pending against the petitioner in the Competent Court of Law in India and the petitioner has been declared a proclaimed offender as he has been avoiding his appearance before the Court.

Insofar as the argument of the petitioner that in the absence of the passport, he would not be in a position to visit India to appear in the criminal proceedings is concerned, learned counsel for the respondent-UOI has submitted that for that purpose, the petitioner can be issued emergency certificate as a travel document for a single side journey.

Thus, in my considered opinion, the passport of the petitioner has rightly been revoked and hence, the present petition is hereby dismissed being denuded of any merit, though without any order as to costs.

**September 05, 2017**  
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**(Rakesh Kumar Jain)**  
**Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No