

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

CWP No.6482 of 2017
Date of decision : 11.05.2017

Gurvinder Singh

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Ms. Ruchi Sekhri, Advocate for the petitioner.

Mr. Indresh Goel, Advocate for Union of India.

AMIT RAWAL, J. (Oral)

The petitioner has knocked the door of this Court seeking following relief:-

“For issuance of a writ, order or direction in the nature of mandamus or any other appropriate writ directing the respondent No.2 to allow the online application submitted by the petitioner on 23.01.2017, bearing file No.CH3070551279816, for renewal of his passport and to reissue passport to the petitioner, in the interest of justice, equity and fair play.”

Ms. Ruchi Sekhri, learned counsel appearing on behalf of the petitioner submits that vide Annexure P-5 dated 31.01.2017, Regional Passport Office, Chandigarh on behalf of Ministry of External Affairs, Government of India informed the petitioner about the rejection of his

application bearing No.CH3070551279816 for issuance of passport on the basis of the registration of the FIR No.19 dated 15.02.2016 under Sections 380, 448, 506 IPC, Police Station Dugri, which is stated to be pending. Though, the petitioner was called upon to give suitable explanation within a period of 30 days. He appeared and gave reply of the same. It is in this context, had to approached this Court. In support of his contentions, he has relied upon Notification dated 25.08.1993 promulgated by Ministry of External Affairs (Annexure P-7), which reads as under:-

“GSR 570(E) - In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No.GSR 298(E), dated the 14th April, 1976, the Central Government being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions namely:-

(a) the passport to be issued to every such citizen shall be issued--

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) If no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year;

(iii) If such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) If such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a), (ii) and (a) (iii) above, can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.

No. Vf4013779J

L.K. PONAPPA, Jt. Secy. (CPV)”

She submits that in view of the aforementioned Notification, the applicants who are facing the criminal prosecution in India can be issued passport for one year but subject to the order of the Court.

Mr. Indresh Goel, Advocate for the Union of India submits that for issuance of passport for a period of one year, there has to be permission from the Criminal Court in India. It is only on these circumstances, passport can be issued by the authority.

I have heard learned counsel for the parties and appraised the paper book and of the view that in view of the Notification, petitioner can be issued a passport for a period of one year as the proceedings in the aforementioned FIR are stated to be pending in the trial Court. Though, petitioner has availed the remedy under Section 482 of Code of Criminal Procedure seeking quashing of the same. Be that as it may, but the fact remains that Notification has been issued to the persons to travel abroad on the basis of issuance of passport valid for a period of one year.

In view of this fact, I deem it appropriate to issue direction to the respondent No.2 to entertain the application aforementioned for issuance of a passport for a period of one year strictly as per the Notification, however, subject to the fact that the petitioner shall have to seek permission of the trial Court to travel abroad.

Resultantly, impugned order is hereby quashed.

Present writ petition stands allowed in the aforementioned observations.

11.05.2017

Pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No