

\$~46

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7788/2017**

TENZIN KUNCHAP

..... Petitioner

Through: Mr Simarpal Singh Sawhney and Mr
Sidhant Krishan Singh, Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr Vikram Jetly, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **19.09.2017**

CM No. 32140/2017

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 7788/2017

3. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondents to issue a passport. The petitioner has further prayed that the penalty amount of ₹10,000/- be also refunded with interest.
4. As far as the issue of passport is concerned, the learned counsel for the respondents submit that there is discrepancy in the petitioner's father name, and that is the reason for petitioner's application for passport has been kept on hold. In this regard, the petitioner is directed to provide all necessary information to the concerned Regional Passport Officer (RPO) within a period of three weeks from today. The RPO is directed to process

the petitioner's application, considering the documents that may be supplied by the petitioner within a period of three weeks, thereafter.

5. Insofar as the levy of penalty is concerned, the learned counsel for the respondent submits that since the petitioner was holding two types of travel documents; the passport as well as an identity certificate, he is liable to pay penalty of ₹5000/-. He readily concedes that the balance of ₹5000/- is required to be refunded to the petitioner.

6. The learned counsel for the petitioner submits that the said question is covered in favour of the petitioner by the decision of this Court in ***Tenzin Dhonden v. Union of India & Ors.***: W.P.(C) No.7983/2016, decided on 12.04.2017. A plain reading of the aforesaid decision indicates that the petitioner's contention is merited. This Court in the case of ***Tenzin Dhonden*** (*supra*) had clearly held that since there was no provision in the application for a passport, which required the applicant to disclose whether he had been issued an identity certificate, the question of suppression of such certificate did not arise. Section 12 of the Passports Act, 1967 is a penal provision and has to be construed strictly. Thus, no penalty could be levied on the petitioner for alleged suppression of his identity certificate.

7. In view of the above, the respondent is directed to refund the penalty of ₹10,000/-, collected from the petitioner.

8. The petition is disposed of with the aforesaid directions.

9. Order *dasti* under the signatures of the Court Master.

VIBHU BAKHRU, J

SEPTEMBER 19, 2017
MK