

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

CWP No.16415 of 2017 (O&M)

Date of decision: 24.08.2018

Simerjeet Singh

...Petitioner(s)

Versus

Union of India and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Bhalla, Advocate for the petitioner(s).

None for the respondents.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks issuance of directions to respondent Nos.2 & 3 to accept the application form of the petitioner and issue the passport after renewing the same which has been refused on account of pending criminal case against the petitioner.

It is contended that the passport issued to the petitioner expired on 18.01.2017. The petitioner applied for the renewal of the passport, however, his request was not acceded to on account of pending criminal case against him. The petitioner had also submitted an application to respondent No.2 but no response has been received so far.

There is no representation on behalf of the respondents.

Heard.

Section 6(2) of the Passports Act, 1967 reads as under:-

2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—

- (a) that the applicant is not a citizen of India;
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;
- (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;
- (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

Further, the Government of India, Ministry of External

Affairs has issued notification dated 25.08.1993 which reads as under:-

'G.S.R. 570(E)--In exercise of the powers conferred by clause (a) of Section 22 of the Passport Act 1967 (15 of 1967) and in suppression of the notification of the Government of India in the Ministry of External Affairs no. G.S.R.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) & (c) XXXX XXXXX XXXX;

(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."

As per condition (f) of the Act and notification No.GSR 570(E) dated 25.08.1993, the petitioner who is facing trial in FIR No.94 dated 22.09.2014, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Mehna, District Moga and has not approached the trial Court for permission despite being advised to do so by the passport authorities, is not entitled to the relief sought. Instead, he chose to file the instant petition which is clearly misconceived. Therefore, finding no merit in the present petition, the same is hereby dismissed. If so advised, the petitioner may obtain necessary permission from the trial Court before approaching the passport authorities.

However, the petitioner shall be at liberty to revive the present petition or file afresh in case, he is acquitted in the pending criminal case.

24.08.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No