

**CM-11381-CWP-2018 in/and
CWP-2067-2017**

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

**CM-11381-CWP-2018 in/and
CWP-2067-2017
Date of decision-08.08.2018**

Amarjit Singh

....Petitioner

Vs.

Union of India and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S.Ghuman, Advocate for the applicant-petitioner.

None for respondent No.1.

Mr. Sumeet Abrol, Advocate for respondent No.2.

JITENDRA CHAUHAN, J.

CM-11381-CWP-2018

Application is allowed as prayed for.

Annexure P-21 is taken on record subject to all just exceptions.

CWP-2067-2017

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ, in the nature of certiorari/mandamus for quashing the impugned order dated 16.12.2016 (Annexure P-13) passed by respondent No.2 and to direct respondent No.2 to re-issue Passport to the petitioner with necessary correction with regard to date of his birth.

Learned counsel for the petitioner contends that case of the petitioner is covered by a judgment passed by Division Bench of this Court in CWP No.13722-2007, titled as “**Resham Singh Vs. Union of India and another**” decided on 06.11.2007 reported in 2008(1) R.C.R.(Civil) 131 (Annexure P-11) which provides as under:-

“The respondents appear to have misunderstood the legal nature of a birth certificate, issued by the Registrar of Births and Deaths and have equated it with a matriculation certificate. While considering two conflicting certificates i.e. a birth certificate issued by the Registrar of Births and Deaths and a matriculation certificate, the date of birth indicated in the birth certificate issued by the Registrar must prevail. However, the Passport Officer would be well within his jurisdiction to satisfy himself as to the genuineness of a certificate and in case it appears to be suspicious, manipulated or procured, he would be justified in relegating the party to approach a civil Court to seek a declaration, as to his date of birth. A Passport Officer cannot, as a matter of routine, in situations as obtaining in the present case, direct the applicant to approach the civil Court. We are, therefore, of the considered opinion that clause (c) of instructions, which accord an equal value to a birth certificate and a matriculation certificate, as regards the date of birth and therefore, direct a party to seek adjudication before a civil Court are incorrect and would have to be ignored.”

On the other hand, learned counsel for respondent No.2 states that the petitioner had made an application for seeking political asylum in the United States of America as well as in Canada on the basis of the old passport issued in the year 1988.

The petitioner was a political asylee in the United States of America and Canada. Since he was found over staying in Canada, therefore, he was deported back to India after a gap of about 27 years after issuing Emergency Certificate bearing No.X-313810 dated 21.01.2015 valid upto 20.02.2015 by the Consulate General of India, Vancouver, Canada against his old passport No.E-742180, having date of his birth as 05.05.1961.

Learned counsel for respondent No.2 further states that since the petitioner has furnished false information and suppressed material information with a view to obtain a passport, he is liable to be proceeded against under Section 12 of the Passport Act, 1967. The petitioner has violated and contravened the statement of Allegiance to the Sovereignty, Unity and Integrity of India.

I have heard learned counsel for the parties and have gone through the case file.

The Division Bench in the above cited case has made a clear distinction that in case the veracity of the document is disputed by the Passport Authority, it is within its right not to issue the passport. In the cited case, difference of age was only of a few months. As per the School leaving certificate, the age of the petitioner was 23.07.1962 whereas in the Births and Deaths Register it was 26.05.1962. On the contrary, in the present petition, the date of birth of the petitioner is reflected as 05.05.1961 in the school leaving certificate which indicates the date of birth as 05.05.1966. The petitioner being major, knowing fully well that date of his birth is

05.05.1966, put up an application duly supported by an affidavit for issuance of passport in the year 1988 and stated his date of birth as 05.05.1961. The said passport was valid up to 27.10.1998, thereafter, another passport was obtained by him with changed date i.e. 05.05.1966 and changed address which was valid up to 2008. There is no document on record showing the validation of the earlier passport to connect both the passports, so the petitioner was deported back to India. Further, the reasons for seeking political asylum in the different countries have not come on record.

In the present case, the petitioner had sought political asylum in USA as well as in Canada. Thus, it cannot be said that the petitioner owes allegiance to India and to its sovereignty, unity and integrity. It is not denied by the petitioner that he made efforts to get political asylum in USA and Canada. It is for this reason, the respondents have denied passport to him. Since political asylum is normally sought by persons by representing to another country that they fear persecution and oppression in their own country, the apprehension of the respondents that the petitioner does not owe allegiance to the sovereignty and integrity of India, is not entirely unjustified. Reliance in this regard can be placed on a Division Bench judgment passed by this Court in CWP-4519-2008, titled as “**Harjit Singh Vs. Union of India and others**” decided on 19.08.2008, it has been held as under:-

“In the present case the petitioner sought political asylum in Germany. Thus it cannot be said that the petitioner owes allegiance to India and to its

sovereignty, unity and integrity. It is not denied by the petitioner that he made efforts to get political asylum in Germany. It is for this reason, the respondents have denied passport to him.

Since political asylum is normally sought by persons by representing to another country that they fear prosecution and oppression in their own country, the apprehension of the respondents that the petitioner does not owe allegiance to the sovereignty and integrity of India, is not entirely unjustified.”

The petitioner held two passports with different particulars and remained in foreign lands without valid travel documents for over 17 years. The request made by the petitioner for re-issuance of passport with changed date of birth was rightly declined by respondent No.2. The impugned order is perfectly legal and valid. No cause of action has accrued in favour of the petitioner to invoke the extraordinary writ jurisdiction of this Court by filing the instant writ petition. The ratio of law laid down in the cited case law is clearly distinguishable on facts of the present petition.

In view of the above discussion, present petition is dismissed.

Pending application(s), if any, shall stand disposed of.

(JITENDRA CHAUHAN)
JUDGE

08.08.2018

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No