

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.20805 of 2017
Date of Decision:08.08.2018

Manuj Sharma

. Petitioner

Vs.

Union of India and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Jyoti Sareen, Advocate,
for the petitioner.

Mr.P.S. Sidhu, Advocate,
for respondents No.1 to 3.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing the adverse remarks “stop imposed” shown in the passport application status dated 23.6.2017 and for setting aside the penalty of ₹5000/- imposed upon him by an oral order dated 23.6.2017 for not mentioning his temporary address in the passport application and further for issuance of a writ in the nature of mandamus directing the respondents to renew his passport on the address given in the application form.

In brief, the petitioner has averred that he is a permanent resident of House No.1743, Sector 34-D, Chandigarh. He had applied for passport in the year 2007, which was issued to him on the same address i.e. House No.1743, Sector 34-D, Chandigarh. His old passport bearing No.G3484674 was going to expire on 21.6.2017, therefore, he had applied for its renewal on 11.4.2017. The petitioner mentioned his permanent and

present address as House No.1743, Sector 34-D, Chandigarh but at that time he was serving with Kotak Mahindra Bank and was staying in a rented accommodation in Flat No.2803, 8th Floor, Sector 19-B, Dwarka, New Delhi. He was contemplating to resign from his job in order to look after his old parents at Chandigarh, therefore, anticipating his shifting to Chandigarh, he did not mention the address of Delhi, which was his temporary abode but his shifting to Chandigarh did not materialize. He appeared before the passport authority on the appointed day i.e. 8.5.2017 and submitted all the requisite documents but received a letter on 29.5.2017, for clarification to furnish explanation in regard to the police verification report that “not residing at given address, presently in Delhi” and was asked to submit documents in proof of his address within 30 days. The petitioner submitted the reply on 23.6.2017 with all the documents of address proof showing his permanent residence of House No.1743, Sector 34-D, Chandigarh but he was asked to deposit ₹5000/- as penalty with respondent No.3 without any order. The petitioner deposited ₹5000/- on 23.6.2017 against a receipt but his application for passport is showing the status as “stop imposed”

Learned counsel for the petitioner has submitted that as per Section 12 of the Passport Act, 1967 [for short ‘the Act’], he has been visited with the penalty of ₹5000/- for the violation of Section 12(b) of the Act whereas he has submitted the explanation as to why he did not mention his temporary address in the application form as he was contemplating his shifting to Chandigarh from Delhi to look after his old parents.

In support of his submissions, learned counsel for the petitioner has relied upon a decision of the Patna High Court rendered in the case of

“Twisha Prashad Vs. The Union of India through Secretary, Ministry of External Affairs, Government of India, New Delhi and others” 2014(12) RCR (Civil) 1698 and a decision of the Andhra Pradesh High Court rendered in the case of *“Raghuram Kamisetty Vs. Regional Passport Officer and another” 2007(35) RCR (Civil) 204* to contend that there is no *mens rea* on the part of the petitioner while not mentioning the temporary address of Delhi which he had further explained.

On the other hand, learned counsel appearing on behalf of respondents No.1 to 3 has submitted that the petitioner was guilty of suppression of material information that he was living in Delhi and therefore, has rightly been visited with fine of ₹5000/-. It is also submitted that the petitioner may, if so advised, apply for the passport from the place he is presently residing because after the filing of his passport application police verification is to be conducted.

I have heard learned counsel for the parties and perused the available record with their able assistance.

It is not in dispute that the petitioner is a permanent resident of Chandigarh, who was holding the passport bearing his Chandigarh address which was going to expire on 21.6.2017. The only mistake committed by the petitioner was that he did not mention his present address of Delhi where he was serving in a Bank. It is clarified by him that he was contemplating to shift to Chandigarh because his old parents are residing in Chandigarh, therefore, he did not mention the address of Delhi. In this regard, the judgments relied upon by the petitioner in the case of *Twisha Prasad (Supra)* and *Raghuram Kamisetty (Supra)* would be applicable in his favour. The

petitioner has also relied upon a decision of Delhi High Court rendered in the case of *“Sh. Avikash Vs. Union of India and another” 2014(3) RCR (Civil) 723* to contend that every citizen has a fundamental right to travel abroad and to have a passport issued in his name and the personal liberty within the meaning of Article 21 of the Constitution of India includes within its ambit the right to go abroad and consequently, no person can be deprived of this right except according to procedure prescribed by law. Learned counsel for the petitioner has further relied upon a decision of Division Bench of this Court rendered in the case of *“Harmeet Jawandha and another Vs. Union of India and another” 1991 AIR (Punjab) 288* in which this Court has held that if the parents are residing at Chandigarh and the student is studying in a boarding school at some other place then the Regional Passport Officer shall be competent to issue passport.

In view of the aforesaid, I am of the considered opinion that the fine imposed upon the petitioner of ₹5000/- is patently illegal and erroneous, the same is directed to be refunded to him and the Regional Passport Officer, Chandigarh is further directed to open the file of the petitioner, which has been closed, and reconsider his case for the purpose of issuance of passport. The necessary formalities shall be completed by the Regional Passport Officer, Chandigarh within a period of one month from the date of receipt of certified copy of this order.

08.08.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No