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

+ W.P.(C) 9039/2018

LAXMAN THAPA Petitioner

Through: Ms Disha Passi, Advocate.

versus

PASSPORT SEWA KENDRAS THROUGH: REGIONAL

PASSPORT OFFICER & ANR Respondents

Through: Mr Rajesh Gogna, CGSC with Mr
Brajesh Kumar and Mr Roshan
Kumar, Advocates for R-1 & R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **28.08.2018**

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondents for issuance of a passport to the petitioner.
2. The petitioner claims that he was born in India on 22.07.1995. It is further stated that the petitioner's father originally belongs to Nepal and had migrated to India in the year 1970.
3. The petitioner's application for passport has been rejected on the ground that he is not a citizen by birth and further his parents are also not citizens of India.
4. In terms of Section 3(1)(b) of the Citizenship Act, 1955 a person born after 1st July, 1987 and prior to commencement of the Citizenship

(Amendment) Act, 2003, would be a citizen of India if either of his/her parents is a citizen of India at the time of his/her birth. Since, the petitioner was born after 01.07.1987 and prior to Citizenship (Amendment) Act, 2003 coming into force the petitioner would be a citizen by birth only if either of his parents are citizens of India.

5. In the circumstances, the petitioner would have to establish that either of his parents are citizens of India.

6. Mr Gogna, learned counsel appearing for the respondent states that since it is admitted that the petitioner's father had migrated from Nepal, he cannot be accepted as a citizen of India unless he obtains certificate of naturalisation in terms of Section 6(1) of the Citizenship Act, 1955. He submits that alternatively, the petitioner can also apply for such a certificate. However, unless, the petitioner is able to establish that he is a citizen of India, a passport cannot be issued to him.

7. In view of the above, the relief as sought for in the present petition cannot be granted. Admittedly, neither the petitioner nor his parents had obtained the certificate of naturalisation.

8. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

AUGUST 28, 2018
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