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

+ W.P.(C) 210/2018

SH. PAWAN KUMAR Petitioner

Through: Mr Francis Paul, Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr Vikram Jetly, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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05.02.2018

CM No.4352/2018

1. The petitioner has filed the present application, *inter alia*, praying that the petition be allowed in terms of the order passed by the Division Bench of this Court in ***Union of India & Anr. v. Satnam Singh: LPA 13/2016, decided on 12.01.2018.***
2. The petitioner impugns an order dated 26.10.2017 (hereafter 'the impugned order'), whereby the petitioner was informed that the respondents had decided not to issue fresh passport to the petitioner for the period of five years from the date of his deportation, that is, upto 07.03.2021.
3. The principal question involved in the present petition is whether the act of the petitioner in applying for asylum in foreign country can be construed as "*prejudicial to the sovereignty and integrity of India*" and justifying denial of passport under Section 6(1)(a) of the Passport Act, 1967.
4. The petitioner has travelled overseas on an Indian passport (passport

no. F2411345).

5. Admittedly, the petitioner had applied for a political asylum in Germany, which was refused and the petitioner travelled back to India on an Emergency Certificate - Certificate No.X0689548 dated 03.03.2016 - issued at the Embassy of India in Rome, Italy.

6. On returning back to India, the petitioner once again applied for a passport, which has since expired. The said passport facility was denied to the petitioner by the impugned order on the ground that the petitioner had “acted against the spirit of the aforesaid declaration.”

7. The declaration referred to in the impugned order was a declaration made by the petitioner in his application for the passport wherein he had declared that *“I owe allegiance to the sovereignty, unity & integrity of India and have not voluntarily acquired citizenship or travel documents of any other country. I have not lost, surrendered or been deprived of citizenship of India. The information given by me in this form and enclosures is true and I am solely responsible for its accuracy”*.

8. Acting against the spirit of declaration is not one of the grounds on which passport facilities can be denied to a citizen of India.

9. The learned counsel for the respondents states that the passport facility was denied by the Central Government on the ground that in terms of Section 6(1)(a) of the Act, 1967: *“that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India.”*

10. In view of the above, the only question that falls for consideration of this Court is whether the act of the petitioner in applying for asylum in other country can be construed as an act prejudicial to the sovereignty and

integrity of India.

11. The said question was considered by this Court in ***Kulvir Singh v. UOI & Anr.: 2014 SCC OnLine Del 7206*** and the Court held that applying for an asylum in a foreign country cannot be construed as an act “prejudicial to the sovereignty and integrity of India”. Consequently, the passport facilities could not be denied for that reason.

12. Following the aforesaid decision, this Court had also allowed other petitions, namely, ***W.P.(C) 11882/2015: Varinder Singh v. UOI & Anr;*** ***W.P.(C) 6254/2015: Amardip Singh v. Union of India & Anr.;*** and ***W.P.(C) 1044/2015: Satnam Singh v. Union of India & Anr.*** The decisions rendered in the aforesaid matters were carried in appeal before the Division Bench of this Court. The Division Bench by a judgment dated 12.01.2018 rendered in those matters (***Union of India & Anr. v. Satnam Singh: LPA 13/2016; Union of India & Anr. v. Amardip Singh: LPA 141/2016 and Union of India & Anr. v. Varinder Singh: LPA 159/2016***). The Division Bench of this Court had affirmed the view as expressed by the Court in *Kulvir Singh* (supra).

13. In view of the above, the present petition and application are allowed and the impugned order dated 26.10.2017 is set aside. The respondents are directed to process the petitioner’s application for a passport in accordance with law within a period of eight weeks from today.

VIBHU BAKHRU, J

FEBRUARY 05, 2018
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