

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

**CWP-12345-2018 (O&M)
Date of Decision: 14.01.2019**

Satwinder Singh

... Petitioner

Versus

Union of India & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Navkiran Singh, Advocate for the petitioner.

Mr. Sudhir Nar, Advocate for respondents No.1 to 3.

Mr. Sahil Sharma, DAG, Punjab.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner is a permanent resident of Austria. The passport that he held expired on 04.03.2009. As per pleadings on record while in Austria, petitioner was charged and convicted for 'attempted coercion' and on account of which he remained behind the bars for 10 months but ultimately he was convicted for a sentence for a period of 6 months. Petitioner was accordingly granted compensation of 30,000 Euro on account of having remained incarcerated for a period in excess of the sentence. During the period of detention, petitioner could not get his passport renewed. Ultimately, his application for renewal of his Indian passport vide receipt dated 11.07.2013 remained pending in the Embassy of India at Vienna, Austria and was rejected vide order dated 07.07.2016 (Annexure P-6). Petitioner filed the appeal under Section 11 of the Passport Act against the order dated 07.07.2016 and which stands rejected by the Appellate Authority in terms of

order dated 06.04.2018 (Annexure P-10).

The instant writ petition is directed against the afore noticed two orders at Annexures P-6 and P-10 respectively.

Having heard counsel for the parties at length, this Court is of the considered view that the legality of the order dated 07.07.2016 (Annexure P-6) need not be gone into at this stage. Such view is being taken for the reason that the facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

Placed on record and appended at Annexure P-9 is the appeal that the petitioner had preferred under Section 11 of the Passport Act against the order dated 07.07.2016. Apart from the other grounds, petitioner had cited non-compliance as also violation of certain provisions of the Passport Act. This Court does not considers it necessary to delineate the contentions and grounds raised in the appeal in the instant order.

Suffice it to observe that the appeal filed by the petitioner has been dismissed by the Appellate Authority vide order dated 06.04.2018 and the operative part of which reads in the following terms:

“Having gone through all the records and in the light of full facts and circumstances of the case, I, as Appellate Authority, as per the provisions under Section 11 of the Passports Act, 1967, decide to dispose the appeal ex-parte as under:

(i) The action of the PO in refusing passport facilities under clause © of Sub Section (2) of Section 5 of the Passports Act, 1967, was in order.

(ii) The case may be considered for the issuance of Emergency Certificate which would enable the appellant to return back to India.

(iii) The appeal is not allowed.

*(Arun Kumar Chatterjee
Joint Secretary (PSP) & Chief Passport Officer.”*

The order passed by the Appellate Authority at Annexure P-10 is clearly a cryptic non-speaking order.

The question as regards reasons to be assigned by the Appellate Authority even while affirming an order passed by the subordinate authority came up for consideration before the Apex Court in **Chairman, Disciplinary Authority, Ranbi Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshaney & others, 2009 (5) SLR 512** and it was observed as under:

“8. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

*9. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of **S.N.Mukherjee vs. Union of India reported in (1990) 4 SCC 594**, is that people must have confidence in the judicial or quasi-judicial authorities.*

10. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

*No doubt, in **S.N. Mukherjee's case (supra)**, it has been observed (vide para 36) that:*

"..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority

agrees with the reasons contained in the order under challenge."

11. The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority."

The impugned order dated 06.04.2018 (Annexure P-10) does not even notice the grounds and submissions raised by the petitioner in the appeal much less deal with the same. The impugned order passed by the Appellate Authority as such cannot sustain.

For the reasons recorded above, the present writ petition is partly allowed and the order dated 06.04.2018 (Annexure P-10) is set aside. The matter is remanded back for consideration afresh at the hands of the Appellate Authority and after taking into account all the submissions and contentions raised by the petitioner in the appeal dated 02.12.2017 (Annexure P-9). Let a final order upon reconsideration be passed within a period of four weeks from the date of receipt of a certified copy of this order.

Instant petition is disposed of in the aforesaid terms.

14.01.2019

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |