

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23550-2014 (O&M)

Date of Decision:-29.01.2019.

Kanwal Prit Singh @ Kamal Singh (NRI)

.....Petitioner

Versus

Union of India through Secretary to Ministry of External Affairs, Govt. of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Ms. Anita Balyan, Advocate for respondent Nos.1 and 3.

ARUN MONGA, J. (Oral)

1.) The present writ petition has been filed for issuance of a writ in the nature of *certiorari* seeking to quash impugned order dated 28.06.2013 (Annexure P-7) passed by Consulate General of India at Vancouver, on the ground that the same is non-speaking.

2.) Vide order dated 15.02.2017, this Court had observed that the petitioner was to satisfy with regard to the maintainability of the petition against respondent No.2 as it had pleaded immunity on the basis of Sovereignty of the State.

3.) Learned counsel for respondent Nos.1 and 3 submits that the impugned order was passed by Consulate General of India at Vancouver B.C., Canada and, therefore, being an order in discharge of sovereign

function, is not amenable to the writ jurisdiction of this Court. She further points out that the grant of Overseas Citizen of India card (OCI) was declined to the petitioner on the ground that he was a refugee claimant having abandoned his own country. Therefore, by his such act, he was debarred from seeking OCI. She contends that in para 8 of the written statement filed by respondents, it has been clearly stated that the grant of OCI was declined to the petitioner on the ground of his being a refugee claimant.

4.) She further points out that Section 14 of Citizenship Act, 1955 prescribes that the reasons for refusal of OCI shall not be questioned in any Court. Be that as it may, the issue of power of judicial review of this Court under Article 226 of the Indian Constitution to entertain the writ petition against refusal of OCI is kept open to be decided in appropriate proceedings.

5.) In view of the fact that petitioner has not controverted the contentions of the respondents as contained in para 8 of the written statement coupled with the fact that the petitioner, despite ample opportunity, has not pursued his case after passing of order dated 15.02.2017 to satisfy the Court with regard to the maintainability of the petition, the present petition is dismissed.

6.) No order as to cost.

(ARUN MONGA)
JUDGE

January 29, 2019.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.