

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

**CWP No.18180 of 2018
Date of decision:16.12.2019**

Daljit Singh

... Petitioner

Vs.

Union of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kamalpreet Bawa, Advocate
for the petitioner.

Mr. Abhimanyu Antil, Advocate
for the respondents.

SUVIR SEHGAL J.

The petitioner has approached this Court for issuance of a writ in the nature of mandamus for directing respondent No.3 to renew/issue a fresh passport to him in lieu of his old passport No.F-0740851.

The facts in brief are that the petitioner had been issued a passport in the year 1990. However, he lost the said passport during his stay in Hong Kong. The first renewed passport was issued to him on 14.10.1994 (Annexure P-1). Thereafter, he was issued second renewed passport on 29.09.2004 which expired in the year 2014. In the year 2015, he applied for renewal of the old passport. However, since his son unfortunately expired on 04.11.2015, he could not pursue the said application and the passport application file was closed by respondent No.2, vide letter dated 19.11.2015 (Annexure P-2). Thereafter, he applied afresh for renewal of passport vide

application dated 02.12.2017 (Annexure P-4). Vide letter dated 17.04.2018 (Annexure P-4), respondent No.3 pointing out certain discrepancies in the application and sought the clarification. When the petitioner visited the office of respondent No.3, he was asked to submit the Emergency Certificate dated 02.01.1996 issued to him by the High Commission of India. The petitioner informed the passport authorities that he did not possess the certificate as it had been taken by the airport authorities when he returned from Hong Kong in 1996. However, his application remained pending and he was not informed about the status of renewal application. He served a legal notice dated 24.05.2018 (Annexure P-5) before approaching this Court by way of present writ petition.

Upon notice being issued, respondents No.1 and 3 have filed their reply wherein they have submitted that on the basis of the passport issued in the year 1990, the petitioner had travelled to Hong Kong and was deported back to India on 07.01.1996 on the strength of Emergency Certificate dated 02.01.1996 issued by the High Commission of India, Hong Kong. However, when he applied for the first and second renewal of the passport, he did not disclose this fact in the application. As a result, no doubt, renewed passports were issued to him, but the petitioner had concealed the facts pertaining to his deportation. In so far as the fresh application for renewal is concerned, it was submitted that because he had suppressed the information earlier, he is not entitled for renewal of his passport, rather the respondents reserve their right to get the criminal case registered against him under the Passport Act, 1967.

Counsel for the parties have been heard. The passport of the petitioner had been issued in 1990. It was renewed in the year 1994 and again in 2004. On both these occasions, the petitioner did not disclose about the fact that he had been deported back on the basis of an Emergency Certificate issued by the High Commission of India, Hong Kong. Both these passports have since expired. He has now applied for renewal of the said passport. In the fresh application now submitted by him, he has disclosed all the facts and given the details of his being deported from Hong Kong. Since all the details have been given, it does not lie in the mouth of the respondents to contend that as he had suppressed information on earlier occasions, the petitioner was not entitled to renewal of passport.

The application for passport can be rejected only on the grounds enumerated in Section 6 of Passport Act, 1967. Section 6, *ibid*, may be noticed:-

6. Refusal of passports, travel documents. etc. (1) *Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and no other ground, namely: -*

(a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India:

(b) that the presence of the applicant in such country

may, or is likely to, be detrimental to the security of India;

(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country,

(d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: -

(a) that the applicant is not a citizen of India.,

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India.,

(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

(e) that the applicant has, at any time during the period of five years immediately preceding the date of his

application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.”

None of the Clauses of Section 6, gives any power to the passport authorities to refuse the renewal of a passport on the ground that there was non-disclosure of facts on previous occasions, therefore, the stand taken by the respondents deserves to be rejected.

In view of this, the respondents are directed to consider the application (Annexure P-4) submitted by the petitioner for renewal of the

passport in accordance with law within a period of one month from the date of receipt of a certified copy of the order. It is clarified that previous non-disclosure regarding deportation of the petitioner from Hong Kong will not stand in the way of such consideration by the passport authorities.

With these observations, the writ petition is disposed of.

December 16, 2019

savita

Whether Speaking/Reasoned

Whether Reportable

(SUVIR SEHGAL)

JUDGE

Yes/No

Yes/No