

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

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**CWP No. 19564 of 2018 (O&M)
Date of Decision : 19.12.2019**

Daljit Singh

... Petitioner

Versus

Union of India and others

...Respondents

CORAM:HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Ruchi Sekri, Advocate for the petitioner.

Mr. Arun Gossain, Advocate for the UOI.

SUVIR SEHGAL, J.

The petitioner has sought issuance of writ in the nature of mandamus for directing respondent No.2 to allow the application submitted by him on 11.03.2018 for renewal of his passport and to re-issue the passport after changing his date of birth on the basis of the birth certificate, issued by the Registrar of Births and Deaths, Punjab.

The petitioner is semi-literate and in the year 2006 had applied for a passport through an agent. Passport bearing No.F-8134436 was issued to him on 06.06.2006 which expired on 05.06.2016. The date of birth of the petitioner was recorded in the passport as 10.01.1970 which was incorrect. The petitioner submitted an application before SDM, Raikot, Ludhiana for issuance of a birth certificate with the correct date of birth. The SDM, marked the application to the Additional Registrar, Births and Deaths, Sudhar/Pakhowal for inquiry and on the basis of the

report submitted by the Additional Registrar, the application of the petitioner was allowed vide order dated 22.07.2015 (Annexure P-3) whereby it was mentioned that the correct date of birth of the petitioner has been verified as 23.04.1966 and recommendation was made for registering the said date under the provisions of Births and Deaths Act, 1969. On the basis of the said recommendations, he was issued birth certificate on 24.07.2015 (Annexure P-4) depicting his date of birth as 23.04.1966. On 11.03.2018, the petitioner applied for renewal of his passport, with Passport Seva Kendra, Ludhiana on the basis of the birth certificate, Adhar Card, Pan Card and driving licence. He took an appointment for 17.04.2018 and thereafter for 05.06.2018, when he was told to approach respondent No.2. However, when he visited the office of respondent No.2, he was told to get an order from the High Court for renewal of the passport. He submits that his application for renewal has not been decided till date.

In response, a short affidavit has been filed on behalf of respondents No.1 and 2 whereby it was submitted that since the earlier passport had been issued to the petitioner on the basis of the police verification report, whereby his date of birth had been verified as 10.01.1970, a renewed passport cannot be issued after changing his date of birth.

Learned counsels for the parties have been heard and record has been perused with their able assistance.

Learned counsel appearing for the petitioner has relied upon a Division Bench of this Court in ***Resham Singh versus Union of India and others***, 2008(1) RCR (Civil)131 and on a judgment delivered by the

High Court of Delhi in ***Sunita Sawhney versus Union of India*** in WP (C) No. 10839 of 2015 decided on 03.12.2015 to submit that the birth certificate issued by the Registrar of Births and Deaths cannot be ignored by the respondent authorities while recording date of birth in the passport of the petitioner.

A Division Bench of this court in ***Resham Singh's*** case (supra) has held as under:-

"13. A birth certificate is issued by a Registrar of Births and Deaths and reflects an entry extracted from the register maintained by the Registrar under the Registrarion of Births and Deaths Act, 1969. The aforementioned statute was enacted to provide for and regulate registration of Births and Deaths and for matters connected therewith. Section 7 thereof, requires a State government to appoint a Registrar for each area comprising the area within the jurisdiction of a municipality/panchayat or the local authority or any other area or a combination of any two or more of them. Section 16 of the Act requires every Registrar to keep in the prescribed form a register of Births and Deaths for the registration of births and deaths in his area or any part thereof in relation to which, he exercises jurisdiction. A register of Births and Deaths is, thus, a public record of births and deaths that occur within the area assigned to a Registrar. The Register being a public record, presumption of truth attaches thereto and consequently to the birth certificate, reflecting an extract from the Births and Deaths register. A matriculation certificate, on the other hand, is primary evidence of the

marks obtained by a candidate in a qualifying examination and the date of birth recorded as an ancillary measure. Primacy would, therefore, have to be accorded to the date of birth reflected in the birth certificate issued by the Registrar of Births and Deaths.

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15. *Thus, taking into consideration the aforementioned judgements, the enunciation of law, as detailed herein above, we are of the considered opinion that the Passport Authority erred by relegating the petitioner to seek a declaration before a civil Court and refusing to entertain his plea for correction of his date of birth. We would like to once again emphasise that as and when an application is filed before a Passport authority and there appears to be a conflict between entries in the birth certificate issued by the Registrar of Births and Deaths and the entry of birth in a school leaving certificate, the entry in the birth certificate issued by the Registrar of Births and Deaths would prevail and except where the certificate is unreliable, suspicious or appears to be procured or manipulated, parties should not be relegated to civil Courts in a mechanical manner."*

In ***Sunita Sawhney's*** case (supra), the High Court of Delhi, after extensive review of the case law on the subject, has held that the birth certificate has to be given primacy in the matter of date of birth and there is no reason as to why the authorities should refuse to correct the date of birth on the passport on production of birth certificate.

Be that as it may, the fact remains that the application

submitted by the petitioner for renewal of his licence is still pending with the passport authorities. It is neither been accepted nor rejected. It is therefore, appropriate that the passport authorities be directed to consider the application and take action thereon in accordance with the provisions of the Passport Act, 1967.

Accordingly, the writ petition is disposed of with a direction to the passport authorities to consider the petitioner's application for renewal of passport, which was submitted on 11.03.2018, in terms of the provisions of the Passport Act, 1967, duly considering the legal position settled in the judgments mentioned above. This exercise be completed by the passport authorities within a period of one month from the date of receipt of certified copy of this order.

Writ petition is accordingly, disposed of.

19.12.2019
pooja saini

(SUVIR SEHGAL)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>