

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

CWP-26236-2016

Date of decision: 14.5.2019

Manjit Kaur Dhaliwal

...Petitioner(s)

Versus

Union of India and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms.Manmohan Kaur, Advocate for the petitioner

Mr.PK Longia, Senior Panel Counsel for the respondents

JITENDRA CHAUHAN, J.

The present petition under Articles 226/227 of the Constitution of India has been filed for directing the respondents to issue passport to the petitioner.

Learned counsel for the petitioner contends that the petitioner was holding a valid passport bearing No.B-2083336, which was lost by her and in this regard a DDR No.146 dated 8.2.2016 was lodged by her. The petitioner applied for fresh passport vide file No.CH307320755013 on the basis of natural parentage but the same was closed without assigning any reason. Thereafter, on the declaration of the adoption deed as illegal, null and void vide judgment dated 24.11.2015 (Annexure P-3), the petitioner again applied for fresh passport on the basis of the natural parentage vide application No. 16-0002101668 dated 17.2.2016 at passport Sewa Kender, Jalandhar, but again the same was not considered and refused to grant

passport to the petitioner without citing any reasons.

On the other hand, learned counsel for the respondents submits that the petitioner did not approach the passport authority with clean hands as he applied for fresh passport without disclosing about her previous passport and on the basis of the natural parentage. He refers to Section 11A of the Passport Act, 1967 (for short 'the Act of 1967'), according to which, the petitioner has approached this Court without availing the alternative efficacious remedy available to her under the law.

Heard.

Section 11-A of the Act of 1967 reads as under:-

11. Appeals (1) Any person aggrieved by an order of the passport authority under clause (b) or clause (c) of sub-section (2) of section 5 or clause (b) of the proviso to section 7 or sub-section (1), or sub-section (3) of section 10 or by an order under sub-section (6) of section 10 of the authority to whom the passport authority is subordinate, may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor: Provided that an appeal may be admitted after the expiry of the period

prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963, (36 of 1963) with respect to the computation of the periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and 6 [by such fee as may be prescribed for meeting the expenses that may be incurred in calling for relevant records and for connected services]

(5) In disposing of an appeal, the appellate authority shall follow such procedure as may be prescribed: Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of representing his case.

(6) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

In the case in hand, the petitioner had applied for fresh passport on the basis of the natural parentage without disclosing her previous

passport in her application. In this regard, office of respondent No.2 sought clarification from the petitioner but no reply was received and therefore, her file was closed. The petitioner instead of availing the efficacious remedy under Section 11A of the Act of 1967, preferred to file the instant petition. No cause of action has accrued in favour of the petitioner to invoke the extraordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India.

In view of the above, the present petition being devoid of merit is dismissed.

However, the petitioner, if so advised, is at liberty to avail the alternative remedy available to her under the law.

14.5.2019
gsv

[JITENDRA CHAUHAN]
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No