IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

207 **CWP No. 25798 of 2018 (O&M)**
Date of Decision : 29.11.2019

Rupinder Singh and others

... Petitioners

Versus

The Regional Passport Officer

...Respondent

CORAM:HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. H.P.S.Ghumman, Advocate for the petitioners.

Mr. Piyush Khanna, Advocate for the respondent.

SUVIR SEHGAL, J.

CM-4661-CWP-2019

Application is for placing on record online appointment receipts (Annexure P-11). Same is allowed.

Online appointment receipts (Annexure P-11) are taken on record.

Main case

The petitioners have filed the instant petition seeking issuance of a writ of mandamus to the respondent for directing it to issue fresh passports to the petitioners with endorsement of words "ECNR" (Emigration Check Not Required) as the petitioners satisfied the condition for the same.

Petitioner No.1 had been issued passport bearing No. P4867383 on 23.11.2016, petitioner No.2 had been issued passport bearing No.P4867380 on 23.11.1996 and petitioner No.3 had been issued passport bearing No.M4304746 on 15.12.2014. The passports had been issued to the petitioners by Regional Passport Officer, Chandigarh with an endorsement "Emigration Check Required" (for short 'ECR'). The petitioners claimed that they fulfilled the condition for grant of passport in the 'non-ECR' category and for this purpose they fulfilled the requisite requirements as uploaded on the web portal of the Regional Passport Office.

The petitioners claimed that they have been regularly submitting the income tax returns, copies of which they had appended as Annexures P5 to P7 and on the basis of the same they had applied to the respondent for endorsement of 'ECNR' on their passports. They had applied online by depositing the requisite fee of ₹1500/- each on 23.08.2018 and they had been granted an appointment for 29.08.2018. However, when they went to the Regional Passport Office for endorsement of 'ECNR' on their passports, their applications were returned. Alleging that the inaction on the part of the respondent is illegal, they have filed the present writ petition.

Upon notice being issued, the respondent has filed a short reply justifying its action. By referring to the income tax returns attached by the petitioners with writ petition, the respondent has submitted that the documents show that the petitioners had merely deposited advance tax, which could not be considered as sufficient for endorsement of 'ECNR' on their passports.

Counsel for the parties have been heard and record has been perused.

The details of requisite documents required for grant of 'Non-

ECR' have been attached with the writ petition as Annexure P-4 and the relevant extract of the same is reproduced hereunder:-

"Income-Tax payers (including Agricultural Income-Tax payees) in their individual capacity, their spouses and dependent children below the age 18 years	*1. i) Proof of assessment of income tax and actual payment of income tax for last one year OR ii) Income Tax Return statement (with income tax being paid by the applicant) for last one year that is stamped by income tax authorities and a copy of the PAN card Note: i) Proof of payment of advance tax is not sufficient. You need to submit additional documents as specified above ii) Applicants submitting NILL income tax return statement are not eligible."*

The documents attached by the petitioners with the writ petition as Annexures P-5 to P-8 show that petitioner No.1 had been filing income tax returns for the assessment year 2014-2015 to assessment year 2018-2019; petitioner No.2 had filed income tax returns for assessment years 2016-2017 to 2018-2019; and petitioner No.3 had filed income tax returns for the assessment years 2015-

2016 to 2017-2018. Subsequently, during the pendency of this writ petition, assessment orders have been passed by the Income Tax Officer and intimation under Section 143(1) of the Income Tax Act, 1961 of the final order dated 19.05.2018 pertaining to assessment year 2017-18 and final order dated 06.02.2019 pertaining to assessment year 2018-19 qua petitioner No.1, have been placed on record as Annexures P-12 and P-13. Similarly, in case of petitioner No.2, intimation under Section 143 (1) *ibid* had been received by her from the Income Tax Officer vide order dated 05.04.2019 (Annexure P-14) and qua respondent No.3, intimation had been received by him for assessment year 2017-2018 on 27.05.2018 (Annexure P-15) and for assessment year 2018-2019 vide order dated 06.02.2019 (Annexure P-16)

A perusal of the income tax verification forms and the intimation received by the petitioners under Section 143(1) *ibid* show that the petitioners are income tax payees and had paid income tax for last one year. Therefore, they fulfilled condition reproduced above and are entitled for endorsement of 'ECNR' on their respective passports. The objection taken by the respondent that payment of advance tax by the petitioners does not show actual payment of tax, will not survive in the light of the final assessment orders (Annexures P-12 to P-16), which establish payment of income tax.

In view of the above, the respondents are directed to consider the applications of the petitioners dated 23.08.2018 (Annexure P-8 to P-10) for endorsement of 'ECNR' (Emigration Check Not Required) on their respective passports, on the appointment fee already deposited by them. The respondent is further directed to intimate the appointment date and time to the petitioners for the said purpose. The intimation be sent to the petitioners within a period of 30 days from the date of receipt of copy of the order and the applications of the petitioners be duly considered on the date of appointment, so fixed by the respondent.

With these observations, petition is disposed of.

(SUVIR SEHGAL)
29.11.2019 **JUDGE**
pooja saini

Whether speaking/reasoned? *Yes/No*

Whether reportable? *Yes/No*