

CWP No.23193 of 2018

{1}

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

**CWP No.23193 of 2018
Date of decision:02.12.2019**

Prabhjot Kaur

... Petitioner

Vs.

Union of India and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. B.D.Sharma, Advocate, for the petitioner.

Ms. Sheenu Sura, Advocate, for the respondents.

SUVIR SEHGAL, J.

The instant petition has been filed seeking a writ in the nature of mandamus for directing the respondents to re-issue passport to the petitioner.

The petitioner was born on 28.03.1994 to Sukhvir Singh and Rajwant Kaur. The names of her parents, Sukhvir Singh and Rajwant Kaur as well as her date of birth are reflected in the Birth Certificate, Matriculation Certificate and Voter Card issued to her which are on the record as Annexures P-1, P-2 and P-4. Vide adoption deed dated 09.05.2001, she was given in adoption to Santokh Singh Khakh and Kamaljit Kaur Khakh. She was issued a passport by the respondents on 10.06.2004, which expired on 27.03.2009. This passport reflected the names of her adoption parents. On 17.09.2015, she filed a suit challenging the adoption deed dated 09.05.2001 and sought a declaration to the effect that she is the natural daughter of Sukhvir Singh and Kulwant Kaur *alias*

Rajwant Kaur. The suit was decreed on 19.12.2016 (Annexure P-7) and ex-parte decree was passed in her favour. In the year 2017, her mother Rajwant Kaur changed her name to Kulwant Kaur and notification to this effect was published in the Gazette of India in September 2017 (Annexure P-6). Since her passport had expired, by virtue of application submitted online on 06.08.2018 (Annexure P-8), she applied for re-issuance of passport wherein she mentioned her natural parents' name, viz. Sukhvir Singh and Kulwant Kaur. However, the respondents did not issue a fresh passport to her on the ground that the names of her parents mentioned in the earlier passport did not match with the names given by her in the application. With this grievance, the petitioner has approached this Court by filing the present writ petition.

Upon notice being issued, the respondents have filed their reply resisting her claim, firstly on the ground that decree of the Civil Court dated 19.12.2016 is not binding upon them and, secondly, that in any case, name of mother of the petitioner as per the birth certificate was Rajwant Kaur and not Kulwant Kaur.

Counsel for the parties have been heard. Regarding the first ground taken by the respondents, the petitioner has submitted that a similar situation had arisen before this Court in **CWP No.24654 of 2017 titled as 'Navneet Kaur Vs. Union of India and another', decided on 23.05.2018.** He has further submitted that this judgment was challenged in LPA No.1355 of 2018 which was withdrawn by the respondents on 19.09.2018.

I have perused the judgment passed by this Court in **Navneet**

Kaur's case (supra). This Court had held that since adoption deed had already been declared null and void by virtue of an ex-parte decree, the petitioner had rightly applied for re-issuance of passport with the names of her natural parents as she stood retransplanted in the natural family from the adoptive family. The Court further directed that objection raised by the respondents that the Civil Court decree is not binding upon them, cannot be sustained. This judgment is fully applicable to the facts of the present case.

In so far as the second ground raised by the respondents is concerned, it will be open for them to seek necessary documents to satisfy themselves with regard to the change in the name of natural mother of the petitioner.

In view of this situation, the present writ petition is disposed of with a direction to the respondents to consider the application (Annexure P-8) submitted by the petitioner for issuance of a fresh passport without raising any objection regarding the validity of the Civil Court decree dated 19.12.2016. It is further observed that in case there are any other formalities or documents sought for by the respondents particularly regarding change in the name of natural mother, the petitioner will be duty bound to supply the same.

With these observations, writ petition is disposed of.

December 02, 2019
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No