

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

CWP No.7892 of 2020

Date of Decision : 16.07.2020

Divya Nagpal

....Petitioner

versus

Union of India and another

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. S.S. Behl, Advocate and
Ms. Harpreet Kaur, Advocate for the petitioner.

Ms. Amrita Singh, Advocate for the respondents.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of pandemic Covid-19.

2. Prayer in the petition under Articles 226/227 of the Constitution of India is for the issuance of a writ in the nature of Mandamus for directing the respondents to issue a fresh passport to the petitioner after incorporating therein her biological mothers name i.e. 'Veena Nagpal' instead of her step mothers name i.e. Simran Nagpal.

3. Brief facts of the case leading to the filing of the instant writ petition are that the petitioner was born on 13.08.1991 out of the wedlock of Pawan Nagpal and Veena Nagpal. Unfortunately the biological mother of the petitioner expired on 24.05.2002, where after the petitioner's father married one Simran Nagpal when the petitioner was 12 years of age. When the petitioner was 13 years of age, her father applied for issuance of passport

Nagpal. Passport was issued by respondent No.2 in favour of the petitioner on 30.07.2004 reflecting her mother's name as Simran Nagpal. However, in March 2020, the petitioner was granted admission in MBA Course in Olin Business School, Saint Louis on scholarship by the Washington University (US) whereupon the petitioner deposited 1500\$ on 08.04.2020 and 1000\$ on 22.04.2020, as per requirement of the University Authorities towards fee for the MBA course. Since the petitioners biological mothers name is mentioned in all her educational certificates as well as Aadhaar Card, therefore, with a view to avoid any difficulty during her studies abroad as well as while travelling, the petitioner requested respondent No.2, vide representation Annexure P/13 dated 01.06.2020, to substitute her biological mothers name i.e. Veena Nagpal instead of her step mother's name i.e. Simran Nagpal. However, on needful not having been done, and classes for the MBA course in USA commencing in the first week of September 2020, the present writ petition has been filed.

4. Reply by way of affidavit of the Regional Passport Officer, Chandigarh, has been filed on behalf of respondent Nos.1 and 2, contending that the petitioner applied for the issuance of passport after she attained majority and at that time she had the opportunity to change any particulars if she so desired in terms of the guidelines contained in the Passport Manual, as per which, when a child applies for passport after attaining majority, he/she has the option to change particulars.

5. Learned counsel for the respondents relies on Clause 4.12 of Chapter-9 of the guidelines in the Passport Manual. The same is reproduced as under :-

“4.12 Death of a spouse, subsequent remarriage and inclusion of stepfather/ stepmother’s name in the passport of child from previous marriage:-

Name of stepfather/stepmother may be written in the passport of the minor against the column of father/mother. Death certificate from the authority concerned in respect of death of biological father/mother, remarriage certificate/joint affidavit relating to remarriage of father/mother and school certificate showing name/step-parent’s name (for school going children) should be submitted along with the passport application. When the child applies for passport for the first time after he becomes major, he has the option to retain the name of biological parent or step-parent, as recorded in his Birth Certificate/educational certificate”

6. Learned Counsel for the respondents contends that in terms of the guidelines contained in Clause 4.12 of Chapter-9 of the Passport Manual name of step father/mother can be written in the passport of a minor against the column of father/mother on submission of death certificate of biological father / mother, remarriage certificate / joint affidavit relating to remarriage of father / mother besides school certificate showing name / step-parent’s name for school going children along with the passport application but when the child applies for passport for the first time upon attaining majority, he / she has the option to retain the name of the biological parent or step-parent, as recorded in his Birth Certificate / educational certificate but not thereafter.

7. Learned counsel for the petitioner contends that the petitioner’s biological mother’s name is reflected in her birth certificate, educational certificates as well as Aadhar Card, therefore, correction sought in the passport is only by incorporation of name of the biological mother

instead of the step mother to avoid any kind of difficulty during travel or in

studies abroad. Learned counsel further contends that the Passport Manual merely contains guidelines, thus the same cannot be used to deny mentioning of correct particulars regarding name of the petitioners biological mother in the passport. Learned counsel relies upon the decision in **R. Gayathiri vs The Regional Passport Officer in WP No.14182 of 2013 and M.P No.1 of 2013**, decided on 16.05.2013, where the Hon'ble Madras High Court on the basis of fair play, equity and prudence and in order to prevent the educational prospect of the petitioner therein from being affected, directed the Regional Passport Officer, Chennai to receive passport application of the petitioner and to process the same and issue passport by using the name of stepfather of the petitioner in the manner known to law and in accordance with law.

8. I have considered the submissions of learned counsel. In the instant case, the petitioner seeks incorporation of name of her biological mother in the passport in substitution of her step mothers name. In view of the Passport Manual being mere guidelines, name of the petitioner's biological mother being mentioned in the birth certificate, educational certificates, Aadhaar Card as also that no prejudice would be caused to either of the parties in the eventuality the name of the petitioner's biological mother is mentioned in her passport, besides the same would prevent confusion in the identification of the petitioner in view of different mothers names in birth certificate, educational certificates as well as Aadhar Card on the one hand and in the passport on the other hand, the Regional Passport Officer, Chandigarh is directed to process the request of the petitioner and issue a fresh passport to her by reflecting her biological mother's name i.e.

Veena Nagpal, in the same, in accordance with law, within a period of ten days from the date of receipt of certified copy of this order.

9. Writ petition disposed of as above. No orders as to costs.

(B.S. Walia)
Judge

16.07.2020
'PS/Rajesh'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No