

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

Sr. No.101

**CWP No.2254 of 2021 (O&M)
DATE OF DECISION: July 05, 2021**

HARJIT SINGH CHADHA AND ANOTHER

..PETITIONERS

VERSUS

REGIONAL PASSPORT OFFICER, AMRITSAR AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Aalok Jagga, Advocate with
Mr. A.P.S. Madaan, Advocate,
for the petitioners.

Mr. Anil Chawla, Advocate,
for the respondent-UOI.

SUDHIR MITTAL, J. (ORAL)

CM-3877-CWP-2021

Exemption sought for is granted.

Application stands disposed of.

CM-3874-CWP-2021

The application is for placing on record written statement along
with annexures.

For the reasons stated therein, the application is allowed and
written statement along with annexures is taken on record.

CWP No.2254 of 2021 (O&M)

CWP-2254-2021

The petitioners have approached this Court as their respective passports are not being renewed by the respondent.

It is submitted that the passport of petitioner No.1 expired on 30.09.2019 whereas that of petitioner No.2 expired on 13.09.2019. Applications for renewal were submitted on 18.09.2019 and in response to queries, e-mail dated 22.10.2020 (part of Annexure P-13) was sent stating that reply from DRT is still awaited.

Further it is stated that petitioner No.1 is the principal borrower and petitioner No.2 is the guarantor of a loan obtained from Punjab & Sind Bank. The account was declared 'Non-Performing Asset' and thereafter proceedings for recovery have been initiated by the said bank which are pending before the Debts Recovery Tribunal, Chandigarh (hereinafter referred to as the DRT).

During the pendency of the proceedings, order dated 29.06.2019 (Annexure P-11) was passed restraining the petitioners from leaving the country without prior information to the Court and filing of undertaking before the Tribunal on the next date of hearing. Authorized officer of the bank was also directed to ensure compliance by sending the order to the concerned Passport Officer. Thereafter, the concerned Passport Officer issued show cause notice dated 09.07.2019 (Annexure R-3) to which reply dated 15.07.2019 (Annexure R-4) was submitted stating that the order of the DRT is being challenged. An FIR has also been registered against

CWP No.2254 of 2021 (O&M)

petitioner No.1 which is FIR No.1 dated 03.01.2018 registered at Police Station Airport Amritsar, under Sections 306 & 120-B IPC. Petitioner No.1 is not the sole accused but has been made a co-accused by roping in the entire family after the cousin of the petitioner namely Inderpreet Singh Chadha committed suicide. Charges have been framed in the said case under Sections 306 & 384 IPC and vide order dated 05.04.2018 (Annexure P-4), petitioner No.1 was directed to deposit his passport as a condition of bail. Since the renewal was required, the concerned Court vide order dated 19.07.2019 (Annexure P-7) has permitted release of the passport, for the purposes of renewal and has also directed redeposit thereof after renewal. Under the circumstances, refusal to renew the passports is illegal.

In response, learned counsel for the respondent submits that Section 6(2)(g) of the Passports Act, 1967 (hereinafter referred to as the 'Act') prohibits the renewal of a passport when a competent Court has restrained a person from traveling abroad. Further, the petitioners did not respond to the show cause notice dated 09.07.2019 and thus, the file was closed. The same was communicated vide letter dated 24.04.2020 (Annexure R-6). Thus, there is no illegality in the action.

Section 6(2) (g) of the Act is reproduced below for ready reference:-

“(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court”

CWP No.2254 of 2021 (O&M)

The aforementioned clause entitles the passport authority to refuse a passport or travel document in case an order prohibiting the departure from India of the applicant has been made by any Court. Order dated 29.06.2019 (Annexure P-11) passed by the DRT does not prohibit the petitioners from leaving India. The said order only restrains them from leaving the country without prior information. Thus, the aforementioned clause does not get attracted in this case.

The petitioners have responded to show cause notice dated 09.07.2019 vide their email dated 15.07.2019 stating that the order of the DRT is being challenged. Assuming, that the same is not a reply to the notice, refusal to do so does not entitle the passport authorities to close the file regarding renewal of passport. The statute does not give any such powers to the passport authorities and no particular provision entitling them to do so has been pointed out. Thus, the argument has to be rejected.

In passing, it may be noticed, that the Sessions Court at Amritsar has, vide its order dated 19.07.2019 (Annexure P-7) already issued directions that post renewal the passport is required to be deposited. Thus, there can be no apprehension of petitioner No.1 escaping his prosecution in India. Every citizen of the country is entitled to a passport and Articles 19 & 21 of the Constitution of India give every citizen the Fundamental Right to travel.

Accordingly, the writ petition is allowed. The respondent is directed to renew the passports after completing all procedural formalities. In case, the petitioners have not filed an undertaking before the DRT

CWP No.2254 of 2021 (O&M)

pursuant to order dated 29.06.2019, the same be done within seven days from today, failing which the renewal would be deemed to be invalid. It is further directed that orders passed by the Sessions Court at Amritsar shall also be complied with in letter and spirit.

July 05, 2021

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable	Yes