

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

CWP-1962-2020 (O&M) .

Date of Decision: March 25, 2021

MAJHEL SINGH

..... PETITIONER(s)

Versus

UNION OF INDIA AND OTHERS

..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mrs. Satpreet Grewal Kapila, Advocate for the petitioner.

Ms. Monica Chawla, Advocate
for respondents no.1 and 3.

Ms. Akshita Chauhan, Asst.A.G., Punjab,
for respondents no.2, 4 and 5.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Petitioner, who at the time filing of this writ petition was working as Agricultural Development Officer, Dasuya, has sought a direction to respondents no. 4 and 5 to issue a 'no objection certificate' to the petitioner, for the purpose of renewal of his passport, as well as issuance of direction to respondents no.1 to 3 to renew the petitioner's passport. Learned counsel for the petitioner informs that petitioner has since retired on 31.08.2020, therefore, there is no requirement of a 'no objection certificate' to the petitioner for the purpose of submitting his application for renewal/issuance of a passport.

Ms. Akshita Chauhan, Asst. A.G., Punjab, learned counsel for respondents no.2, 4 and 5 verifies this assertion.

Learned counsel for the petitioner submits that petitioner after his retirement has submitted an application online for renewal of his passport on 29.01.2021. It is submitted that respondent-Department, at the relevant stage had refused to issue a 'no objection certificate' to the petitioner on the ground of pendency of FIR No.06 dated 12.05.2016, under Sections 420, 467, 468, 471, 120-B IPC and Sections 13(1)(D) read with Section 13(2) of Prevention of Corruption Act, 1988 against petitioner. It is submitted that petitioner had duly been reinstated by the Department and has superannuated on 31.08.2020. It is further submitted that final report under Section 173 Cr.P.C./challan in the said FIR, has not been presented till date.

Learned counsel for respondents no.2, 4 and 5, on instructions from Inspector Manmohan Singh, Vigilance Unit, Hoshiarpur, confirms that the final report/challan has not been presented in the said FIR till date. Pendency of any other case against the petitioner is not brought to notice.

It is a settled position of law that issuance/renewal of a passport cannot be refused solely on the ground of registration of an FIR. The rigours of Sections 6(2) and 10(3) of the Passports Act, 1967, regarding refusal/rejection of passport come into operation in case of cognizance being taken by a Court of competent jurisdiction. Reference in this respect can gainfully be made to *Jaswinder Singh Vs. Union of India and another 2020(1) RCR (Civil) 550* and *Sahib Jaskaran Singh Vs. Union of India and others 2016(2) RCR (Criminal) 798*, wherein it is held that unless and until cognizance of a matter is taken by a Court of competent jurisdiction,

provisions of Section 6(2) and 10(3) of the Passports Act, 1967 would not come into play. Admittedly, cognizance has not been taken by a Court of competent jurisdiction in the present case. Application for issuance of passport has been submitted by the petitioner qua which certain objections have been raised.

Learned counsel for the petitioner submits that necessary steps in this regard shall be taken and the application re-submitted by the petitioner within 15 days.

In case, application for issuance of passport is submitted by the petitioner, it is directed that same be considered by respondents no.1 and 3, in accordance with the provisions of law and specifically keeping in view the decisions in *Jaswinder Singh Vs. Union of India and another 2020(1) RCR (Civil) 550* and *Sahib Jaskaran Singh Vs. Union of India and others 2016(2) RCR (Criminal) 798*.

Petition is disposed of accordingly.

25.03.2021

Sunil

(LISA GILL)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No