

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No. 5991 of 2021(O&M)

Date of Decision: 25.03.2021

Sukhwinder Ram

....Petitioner(s)

Versus

Union of India and others

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present : Mr. Vivek K. Thakur, Advocate, for the petitioner.

Mr. Ankur Sharma, Advocate, for respondent Nos. 1 and 2.

Mr. Pankaj Gupta, Addl. Advocate General, Punjab.

**Through Video Conferencing**

**JASGURPREET SINGH PURI, J. (Oral)**

**CM-4928-CWP-2021**

Exemption granted, as prayed for.

Annexures R-1 and R-2 are taken on record.

The application stands disposed of.

**CM-4929-CWP-2021**

This application has been filed for placing on record the short reply by way of affidavit.

For the reasons recorded in the application, the same is allowed. The accompanying short reply by way of affidavit of Purshotam Kumar Padam, Assistant Passport Officer, Jalandhar is taken on record.

**Main case**

The present petition has been filed under Articles 226/227 of the Constitution of India seeking a writ, order or direction especially in the nature of certiorari for setting aside the letter dated **04.02.2021 (Annexure P-11)** issued by respondent No.2, whereby the file submitted by the petitioner has been closed.

At the time when notice of motion was issued on 16.03.2021, the learned counsel for the petitioner had submitted that the petitioner had applied to the passport authorities for adding the name of his wife in the passport but the passport authorities vide Annexure P-10 had asked for some more details and documents. He had further submitted that the petitioner had been visiting the passport office number of times and had supplied all the documents but the passport authorities have not considered the same and rather passed an order Annexure P-11 whereby the application has been declined only on the ground that there was no response from the petitioner. He had further categorically submitted that the petitioner visited the passport office number of times but this order has been passed on wrong facts and that since he is working in Italy, he has to leave on 06.04.2021.

On the basis of the averments made in the writ petition and arguments raised by the learned counsel for the petitioner, this Court had issued notice of motion for 25.03.2021 and Mr. Ankur Sharma, Advocate had accepted notice on behalf of respondent Nos. 1 and 2 (Union of India and Regional Passport Officer, Jalandhar respectively). The State was also represented by Deputy Advocate General, Punjab. Direction was issued to the Regional Passport Officer, Jalandhar to file affidavit before the next date of hearing and the learned counsel for the Union of India was also asked to

seek instructions that in case the petitioner now supplies all the documents, which are required then whether the impugned order can be reviewed in accordance with law or not. The order of notice of motion is reproduced as under:-

*“Learned counsel for the petitioner has submitted that the petitioner had applied to the passport authorities for adding the name of his wife in the passport but the passport authorities vide Annexure P-10 had asked for some details and documents. He submits that the petitioner had been visiting the passport office number of times and had supplied all the documents but the passport authorities have not considered the same and rather passed an order Annexure P-11 whereby his application has been declined only on the ground that there was no response from the petitioner.*

*Learned counsel has categorically submitted that he has visited the passport office number of times but this order has been passed on wrong facts. He has further submitted that the petitioner is working in Italy and he has to leave for Italy on 6.4.2021 for the said purpose and therefore, there is urgency in the matter.*

*Notice of motion for 25.3.2021.*

*Mr. Ankur Sharma, Advocate, accepts notice on behalf of respondent Nos.1 and 2.*

*On asking of the Court, Ms. Maloo Chahal, DAG, Punjab, accepts notice on behalf of respondent Nos.3 and 4.*

*Let Regional Passport Officer, Jalandhar, Punjab, file affidavit before the next date of hearing with an advance copy to the learned counsel for the petitioner.*

*Learned counsel for Union of India would also seek instructions that in case the petitioner now supplies all the*

*documents which are required then whether the impugned order can be reviewed in accordance with law or not'.*

The learned counsel for the petitioner has submitted that the petitioner has been deprived of his passport only on the ground that the FIR is pending against him and this is in violation of law because mere pendency of FIR does not constitute a ground for refusal of a passport.

In pursuance of the notice of motion order, a short reply has been filed by way of counter affidavit by the Assistant Passport Officer, Jalandhar, in which it has been submitted that the petitioner has concealed and suppressed material facts from this Court. It has been submitted in the affidavit that the petitioner had applied and was re-issued a short valid passport for a period of one year on 10.05.2010 which was valid upto 20.05.2011 from Embassy of India at Italy against his old passport dated 14.11.2002 which was issued from Embassy of India at Paris in the particulars of Sukhwinder Ram son of Bhajan Ram and Kulwant Ram with date and place of birth as 02.03.1980. Thereafter on 26.12.2012, the petitioner again applied for re-issuance of passport against his old short valid passport dated 10.05.2010 and re-issued passport dated 27.04.2012 which was valid upto 26.04.2022. Again on 01.12.2020, the petitioner applied for re-issuance of passport with the office of the respondent against his old passport for inclusion of name of his spouse as Pawandeep Gill by suppressing material information with regard to FIR No.23 of 2020 registered against him. However, his passport application was accepted and processed for re-issuance of passport with spouse name as above and as per the office procedure, the case of the petitioner was referred to the police

authorities on the same day. However, on 16.12.2020 the police authorities had submitted a report as adverse remarks that the aforesaid FIR is pending in the Court and therefore, his passport was not re-issued with his spouse name due to his own act and conduct and the adverse report submitted by the police authority. It is further submitted in the affidavit that the petitioner while applying for re-issuance of the passport concealed material facts with regard to the pendency of the FIR.

It is further stated in the affidavit that on 04.02.2021 the petitioner visited the office of respondent No.2 and submitted a self declaration requesting the office to close his present file and in the meantime he undertook that he will file fresh file with the permission of the Court. The said declaration has been attached alongwith the affidavit as Annexure R-2 and the contents of the self declaration is reproduced as under:-

'Self Declaration

*I, Sukhwinder Ram S/o Bhajan Ram R/o Vill. Akbarpur, PO Begowal, Distt. Kapurthala, do solemnly affirm & declare as under:-*

- 1. That I have applied for the issue of passport vide file no.JA3075032148220.*
- 2. That I inform you that there is my police verification not clear because I have court case pending me in the honourable court. So I want to close my present file. I will file again with the permission of court. So the please close my present file'.*

Consequently, the file of the petitioner was closed on 04.02.2021 at his own request. It has been further stated in the affidavit filed by the Assistant Passport Officer that on 04.03.2021 the petitioner again applied for re-issuance of passport against his closure letter dated

04.02.2021 and the case of the petitioner was again accepted and processed without any prejudice subject to clear police verification report but police report is still awaited and thereafter on 16.03.2021, the office of respondent No.2 has already issued him letters dated 16.03.2021 and 18.03.2021 advising him to visit the office of respondent No.2 on any working day between 9.30 A.M. to 12.00 Noon with all the supporting documents including details of passports held by him including the passport he had travelled abroad for the first time. Furthermore, it has been stated in the affidavit that the case never reached at the stage of refusal and the case is pre-mature as the petitioner has not exhausted any remedial opportunity which is already available to him under Section 11 of the Passport Act, 1967 before the competent authorities and the petitioner instead of availing opportunity of hearing by raising his grievances in a proper representation, preferred approaching to this Court directly seeking a direction. It is further mentioned in para 11 of the affidavit that in case the petitioner supplies details of passports held by him including the passport on which he had travelled abroad for the first time, then the passport of the petitioner would be issued expeditiously to the petitioner in the interest of justice and subject to clear police verification report as per the procedure laid down by the Ministry from time to time under Section 24 of the Passport Act, 1967 for issuance/re-issuance of a passport.

I have heard the learned counsel for the parties.

The entire case which has been set up in the present petition and which has also been reflected in the notice of motion order is that the petitioner had filed an application to the passport authorities for re-issuance

of passport by adding the name of his wife and that in view of the fact that some FIR is pending against him, the same cannot constitute a ground for refusal to re-issue the passport and that he has been refused the passport vide letter dated 04.02.2021 (Annexure P-11). It was because of this reason that the learned counsel for Union of India was also asked to seek instructions that in case the petitioner now supplies all the documents which are required then whether the impugned order can be reviewed in accordance with law or not. The impugned order in the present case is Annexure P-11 dated 04.02.2021. However, it is very strange that after this impugned order which was passed on 04.02.2021 (Annexure P-11), the petitioner never disclosed in the present petition that after the closure/refusal by the passport authorities vide Annexure P-11 dated 04.02.2021, the petitioner had rather filed a fresh application which was permitted to him by the impugned order dated 04.02.2021 (Annexure P-11). It is only now when the reply has been filed by the Assistant Passport Officer wherein it has been stated that the petitioner has filed a fresh application on 04.03.2021 i.e. after the refusal order dated 04.02.2021 and the same is already under process. There has been an active and deliberate concealment of material facts by the petitioner. Had it been disclosed in the petition that his application was still pending after the order dated 04.02.2021, this Court would not have directed the Passport Officer to explore the possibility of reviewing the impugned order dated 04.02.2021 (Annexure P-11). The entire writ petition was filed on the premise that on 04.02.2021 vide Annexure P-11, the application of the petitioner has been closed/refused and therefore, the present petition was filed. However, the true factual position has been disclosed now by the

passport authority by saying that thereafter the petitioner has filed another application on 04.03.2021, which is still pending before the passport authorities. Furthermore the petitioner concealed that it was on his own request vide Annexure R-2 that his file was closed. However he has filed the present petition on the ground that his file has been closed.

This Court at this stage, would not go into as to whether the refusal on the ground of pendency of FIR was bad in law or not but this Court would certainly go into the issue that a person who comes to the Court must come with clean hands and must disclose true and complete facts to the Court. In the present case, this Court is of the view that the petitioner has not disclosed true and complete facts and does not deserve the relief from this Court for invoking extraordinary jurisdiction under Article 226 of the Constitution of India. However, this order would not preclude the petitioner from approaching the passport authorities for redressal of his grievance in accordance with law.

Consequently, the present petition is hereby dismissed.

**25.03.2021**  
rakesh

**(JASGURPREET SINGH PURI)**  
**JUDGE**

|                    |   |        |
|--------------------|---|--------|
| Whether speaking   | : | Yes/No |
| Whether reportable | : | Yes/No |