

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CWP 35115 of 2019 (O&M)
Date of Decision: January 08, 2021**

Jagdeep SinghPetitioner
Versus
Union of India and others
.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Umesh Aggarwal, Advocate
for the petitioner.

Ms. Sonia Sharma, Panel Counsel
for Union of India respondents No. 1 and 3.

Mr. T.P.S. Chawla, DAG, Punjab
for respondents No. 2, 4 and 5.

FATEH DEEP SINGH, J.

The matter has been taken up through
video-conferencing on account of outbreak of pandemic COVID-
19.

Petitioner Jagdeep Singh by invocation of Article 226
of the Constitution of India has sought against the respondents
writ in the nature of *mandamus* directing the respondents to

re-issue his passport. The case of the petitioner is that FIR bearing No. 96 dated 11.06.2017 under Sections 406 and 498-A IPC was registered against him in Police Station Chabal Amritsar (Annexure P-1) and that during the course of investigations he has been found to be innocent in the light of the report of the inquiry officer (Annexure P-2). During the course of time, petitioner applied for re-issuance of his passport under application reference No. 18-0014105342 dated 18.09.2018 (Annexure P-3) and to the utter dismay of the petitioner, the respondents have failed to re-issue the passport of the petitioner and on inquiry the reason is forthcoming that a case was registered against him.

The respondents in their reply though accept that file (Annexure R-1) was moved by the petitioner, however, on account of adverse police verification report from COP Amritsar, the petitioner was called upon to provide copy of the Court judgment and as the petitioner did not respond for a long time the file was closed on 10.06.2019 (Annexure R-4).

Upon hearing Mr. Umesh Aggarwal, Advocate for the petitioner, Ms. Sonia Sharma, Panel counsel for UOI respondents No. 1 and 3 and Mr. T.P.S. Chawla, DAG, Punjab for respondents No. 2, 4 and 5.

Section 6 of the Passports Act 1967 pertains to refusal of passports, travel documents etc. The relevant Sections 6(2) is reproduced below:-

"6. Refusal of passports, travel documents. etc.--

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of [section 5](#) on any one or more of the following grounds, and on no other ground, namely: -

- (a) that the applicant is not a citizen of India.,
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India.,
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;
- (e) that the applicant has, at any time during the period

of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

(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;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.

and which clearly enlist that under clause (f) that proceedings in respect of which an offence is alleged to have been committed by the applicant are pending before a Criminal Court in India, to the specific query of this Court, learned State counsel could not refute the fact vide Anneuxre P-2, the petitioner has been held to be innocent by an senior functionary of the police and which could not be disputed and till date, the

State counsel shows their reply does not claim that any criminal proceedings are pending against petitioner. This Court in double bench view in **Balwinder Singh** Vs. **Union of India and others** 2005(1) PLR 346 and Single Bench view in **Daler Singh** Vs. **Union of India and others** CWP 12143 of 2015 (O&M) considered such an aspect and it was laid down that such a provision does not vests in the authorities arbitrarily the powers to deny such a constitutional right of a party. It is not the case of the respondents that as on date, the petitioner is facing a trial in a criminal case and therefore there appears no impediment in re-issuance of the passport which was earlier issued to him. Rather what appears to the mind of this Court, the petitioner belongs to a village in Amritsar and the case was got registered due to matrimonial dispute in adjoining district of Tarn Taran (which earlier was one and the same district). More so, the letter addressed by the Senior Superintendent of Police to Inspector General of Police Border Zone Amritsar (Annexure P-2) clearly illustrates that the petitioner has been found to be innocent how

and under what pretext, the authorities has tried to give an indecent burial to the file of the petitioner causes this Court to be alarmed over the very motive and purpose of the respondents in denying the petitioner of his passport and, thus, restricted his movement to a foreign country. The respondents being functionaries of the State are supposed to be sensitive to such things and ensure expeditious disposal of such request and rather what is directed to be put-forth before this Court by the learned State counsel is nothing but a futile effort to disown the responsibility which falls clearly on respondents and who cannot absolve themselves of their denial of this constitutional right of the petitioner so to the mind of this Court there is no legally justifiable ground or cause for the respondents to put the petitioner to such harassment and further burdening this Court with unwanted and unnecessary litigation.

In view of the foregoing discussion, this Court allows the instant petition whereby directions are issued to the respondents to immediately issue the passport to the petitioner

as per rules without loss of time preferably within one month of the receipt of copy of this order provided there is no other legal reasons to do so.

In the light of what has come about by way of harassment and unnecessary litigation, the respondents are burdened with costs of Rs.1,00,000/- which shall be immediately paid by the State of Punjab and after necessary inquiry holding the guilt and responsibility of its officers shall ensure that this amount of costs is not unnecessarily put on the State exchequer and the amount be recovered from erring officials in proportionate shares.

January 08, 2021
amit rana

(FATEH DEEP SINGH)
JUDGE

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