

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.31879 OF 2022

Jibanananda Mohanty @ Jiban Mohanty

Petitioner(s)
Mr.C.K.Agrawal,Adv.

-versus-

Union of India and others

Opposite Party(s)
Mr.P.K.Parhi,DSGI
Assisted by
Mr.P.P.Behera,CGC

CORAM:
JUSTICE BISWANATH RATH

ORDER
01.12.2022

Order No.

03.

1. On consent of Parties, the matter is taken up for final disposal.
2. Heard learned counsel for the Parties.
3. This Writ Petition involves the following prayer:-

“Under these circumstances the petitioner most humbly pray that this Hon’ble Court may graciously be pleased to issue a Rule Nisi calling upon the opposite parties to show cause as to why;

 - (i) The action of the Opposite Parties in non-renewal of the passport of the petitioner shall not be declared as illegal, arbitrary, unreasonable and unjustified.
 - (ii) The Opposite Parties shall not be directed to renew the passport of the petitioner for a period of 10 years within a stipulated period of time.
 - (iii) And other relief(s) shall not be granted to the petitioner in the facts and circumstances of the case.

And if the opposite parties fail to show cause or show insufficient cause, the said Rule be made absolute.
And for this Act of kindness the petitioner shall as in duty bound ever pray.”

4. Petitioner's case is that he was working as the Senior Agency Development Manager in the office of the HDFC Life Insurance, Cuttack Branch, Cuttack. He was issued with a Passport by the Passport Authority on 14.11.2021 for a period of ten years, validity of the Passport was 13.11.2021. Since the Petitioner was having at some point of time overseas assignment, looking to the overseas performance, the HDFC Life Insurance since organizing Pride International Convention Trip in the Kingdom of Thailand facilitate its eligible employees to participate in such function organized at International level on 08.12.2022 including the Petitioner. Petitioner along with some other employees are getting the opportunity to attend such international function being selected to attend the Pride International Convention and finding his passport is going to lapse and remains inoperational thereby preventing the Petitioner to have such opportunity, he applied for renewal of the passport on 08.09.2022 vide Application Reference No.22-1010364543. Copy of the application is appended to the Writ Petition as Annexure-5. It is pursuant to such application, Opposite Party-2, the Passport Authority issued a correspondence vide Annexure-6 directing the Petitioner to meet inquiry officer to satisfy him on Patakura PS Case No.268 dated 26.12.2018 for the alleged involvement of the Petitioner in offence under Section 341, 294, 448, 323, 506, 34 of I.P.C. read with Section 3(1) (r) (s) SC-ST (P.A) Act finds place vide Annexure-6. For there is no response in due time, the Writ Petition has been filed. Petitioner alleged on attending the Office of Opposite Party No.2, suggested to proceed further only after Petitioner gets an order from this Court.

5. Mr.Agarwal, learned counsel for the Petitioner taking this Court to the allegation in paragraph-10 and the other pleadings submitted to the Court that finding the Petitioner is already on police

bail granted in exercise of power under Section 41(a) of Cr.P.C. since 31.01.2019 involving the criminal case involved herein, Petitioner attempted personally attending the Office of Opposite Party No.2 to satisfy him on the required aspect, however the Passport Officer declined the submission of the Petitioner and directed him orally to bring an order from High Court.

6. Taking this Court to the pleadings in paragraph-12, learned counsel for the Petitioner submits that Petitioner has a clear pleading of being granted bail by police under the provision of Section 41(a) of Cr.P.C. It is thus alleged that the Opposite Party No.2 has declined to proceed further in absence of court order, even in spite of the Petitioner already attempted to satisfy the authority being present before him, the date fixed by Annexure-6.

7. In the circumstance considering urgency involving this matter, in spite of the Writ Petition was filed on 23.11.2022 and copy being served on learned counsel appearing for the Passport Authority on 24.11.2022, when the matter was taken up on 28.11.2022, on the request of learned counsel for Opposite Party No.2, the matter was adjourned to 30.11.2022. On the said date, Mr.Parhi, learned DSGI requested this Court for another adjournment of this matter. Considering the urgency involving the matter, this Court directed to list this matter again on 01.12.2022. This matter is accordingly taken up today.

8. Mr. Agarwal, learned counsel for the Petitioner in course of hearing produced certified copy of police report including bail order to further satisfy his case. Mr.Agarwal, learned counsel for the Petitioner submits, provided his client was entertained on the date, he attended Office of Opposite Party No.2, Petitioner was ready to produce relevant papers.

9. Mr.Parhi, learned DSGI assisted by Mr. Behera, learned CGC objected the claim of the Petitioner on the premises that even though Petitioner is satisfying that he is on bail involving the case involving Annexure-6, however for Petitioner not disclosing his involvement in a criminal case aspect in the renewal application, there is a case declining renewal of Passport. Mr.Behera, learned CGC also alleges on instruction that looking to the condition at page-20 serial No.14, there is requirement of providing original police report before the competent authority before the passport or renewal aspect. In the event Petitioner not providing the original report involving the police case, the Passport Authority is unable to proceed further. Taking into consideration the allegation and the objection of the respective counsel involved herein, this Court here finds, there cannot be any dispute that there has been prescribed format ensuring certain requirements in either grant of the passport or renewal of passport.

10. Taking into consideration the objection of the counsel appearing for Opposite Party No.2, the Authority in charge of the issue involved herein, this Court finds, upon receipt of the passport renewal application of the Petitioner, the authority has issued a communication to the Petitioner vide Annexure-6 appearing to have been issued on 26.09.2022. The requirement aspect involving Annexure-6 appears to be as follows:-

Dear Sir,

This is in reference to your Passport application number BH10745810590922 dated 13.09.2022.

On processing of the Application form, the following shortcomings came to notice:-

- 1) on verification of PS Records found he is involved in Patkura PS Case No.268 dtd 26.12.2018 U-S 341-294-448-323-506-34 IPC-sec 3(1)(r) (s) SC-ST PoA Act as per police verification report.

Please visit this office enquiry with online appointment to meet to enquiry officer with requisite documents.

Yours Sincerely,
For Regional Passport Office, Bhubaneswar

Reading this communication to the Petitioner, this Court finds the only objection indicated therein appears to be involving pendency of a criminal case against the Petitioner as ascertained from the police verification report and thereby asking the Petitioner to appear in between 10.00 A.M. to 2.00. P.M., only on working days to satisfy on criminal case aspect only. The Petitioner was possibly required to provide documents information on the criminal case pending. Even though Mr.Behera, learned counsel appearing for Opposite Party No.2 raises objection in the renewal passport for non-production of police report in original at page-20 serial No.14, unfortunately there is no such indication in Annexure-6. This Court here through the averments in paragraphs-10 and 12 finds, the Petitioner has the following allegation as well as pleading. In paragraph-10, Petitioner when alleges making an allegation against the Officer involved asking the Petitioner to get an order to proceed further in the renewal aspects in paragraph-12, there is clear indication that the Petitioner is already on bail involving the case indicated in Annexure-6. This Court takes serious note of such allegation. Even though the matter has been adjourned, there is no response to such allegation. This Court finds, the allegation appears to be established as not controverted.

It is also otherwise not possible as to the person seeking renewal of passport and having such urgency being ready with documents required to satisfying his case on the criminal case aspect not to provide proof and making false allegation against the officer involved.

11. Looking to the pleadings through paragraph-12, this Court finds, Petitioner has a clear pleading through this paragraph on grant of bail to him since 31.01.2019. Copy of this petition admitted to have been served on counsel for the Opposite Party No.2 since 24.11.2022. This Court observes, even assuming Petitioner has not produced any such proof, looking to the sole requirement in Annexure-6 for clear statement and claim in paragraph-12 and further in paragraph-13, nothing prevented the Passport Authority on giving a call to the Petitioner to attend his Office in particular date and to proceed with the renewal of passport aspect. It may be mentioned herein, this Court is loaded with at least one such case involving either renewal of passport or grant of passport on every date. The indication appearing at Annexure-6 appears to be available in almost all cases. It is unfortunate to note that when the police is involved in the inquiry at the instance of Passport Authority on the criminal involvement aspect, if any, involving such candidate when informs the Authority regarding pendency of cases should also inform the Competent Authority regarding bail position since it is already aware of such development. This Court hopes and expects, in the event any inquiry is called for by the Passport Authority through Police Authority regarding criminal case, if any, there should also be inquiry on the bail aspect of Petitioner. Based on such information, matters can be disposed of. It is at this stage, this Court takes note of the judgement of this Court in W.P.(C) No.4834 of 2022 passed in 23.03.2022. This case was disposed of taking into account several decisions and almost settled position of law on the issue involved herein and observes, once the party is on bail, there should not be any obstruction in grant of renewal and/or grant of passport. In deciding

the above case, this Court has formulated certain formulae required to be undertaken.

12. This Court finds surprise even though by the above judgement was passed since 23.03.2022, the Passport Authority is still busy in racking such type of issuing instead of improving conditions in requirement for police information and forcing the parties visiting their Office in requirement of renewal of passport or grant of passport again and again. This Court finds, there are some sorts of harassment to the citizens of the country in requirement of passport or renewal of passport.

13. Considering the allegation aspects in paragraph-10 and as this Court everyday finds this sort of allegation even after a clear judgment of this Court in reference to settling of the position by Hon'ble apex Court, there is no improvement in the behavior of the Passport Authority to the citizen of the country more particularly in this State. This Court hopes and expects, the Opposite Party No.1 shall undertake the required exercise on the aspect of dealing of such issues by the Regional Passport Officers and attempt to bring in the system. The case at hand has bright case establishing such allegation for the reason of the Opposite Party No.2 even after coming to know the development through the criminal case that the Petitioner is already on bail by police under Section 41(a) of Cr.P.C. and the allegation through paragraph-10 and asking the Petitioner to obtain order from the Court only after that the Passport matter will be progressed.

14. Coming back to the case at hand since the Petitioner has already a clear disclosure of his being released on bail under the provision of Section 41(a) of Cr.P.C., the Petitioner is directed to appear before the Regional Passport Officer in the Office at

Bhubaneswar at 2.00 P.M. on tomorrow (02.12.2022) with proof of bail on production of such copy, the Passport Authority shall process the renewal of passport over while also keeping in view involving the judgment of this Court in W.P.(C) No.4834 of 2022 and shall see there is renewal of passport involved herein on the same date. Since supply of copy of the order may be delayed, looking to the length of the order, this Court directs Mr.Behera and Mr. Parhi, learned counsel appearing for the Passport Authority to give necessary instruction to the Passport Authority to cooperate with the Petitioner and comply the direction of this Court with all promptitude.

15. The Writ Petition succeeds.

(Biswanath Rath)
Judge

Swarna

