

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

101

CWP No.24378 of 2022

Date of Decision: 01.12.2022

Gurcharan Singh Dhaliwal

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Janak Singh Bhinder, Advocate, for the petitioner.

VIKAS SURI, J. (Oral)

This petition preferred under Article 226 of the Constitution of India, raises a grievance that the petitioner had applied for re-issue of his passport and on account of an adverse police verification report, the same has not been issued. Thus, a writ in the nature of mandamus seeking directions to the passport authority to re-issue passport to the petitioner has been sought.

A perusal of the paper book reveals that a show cause notice dated 30.08.2022, as indicated in the result shown through the status tracker of the website (Annexure P-4) was sent to the petitioner.

On a query of the Court, it is disclosed that the said show cause notice has not been responded to as yet. Learned counsel would further submit that the petitioner had been implicated in three FIRs, the details of which have been given in Para 6 of the petition. In one of the cases, i.e. FIR No.2 dated 12.01.2016, the petitioner was convicted and an appeal there against is pending in this Court, whereas in the other two FIRs, the petitioner is still facing trial.

Learned counsel for the petitioner is not in a position to deny that the ground enumerated under Section 6(2)(f) of the Passports Act, 1967 is attracted in the present conceded factual position, as noticed above. Thus, any direction contrary to statutory provisions is uncalled for.

In view of the above, learned counsel for the petitioner submits that in light of the observations made in CWP-21203-2022 titled *Kishan Pal vs. Union of India and others*, decided on 16.09.2022, the petitioner be also granted liberty to approach the concerned criminal Court to avail remedy in terms of the notification No. G.S.R. 570(E) dated 25.08.1993. The observations in the said case read as under:

“The Central Government exercising its authority to exempt, by issuing notification G.S.R. 570(E) dated 25.08.1993 under powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (for short referred as ‘the Act’), has conditionally exempted the citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operations of provisions of Section 6(2)(f) of the Act.

After arguing for some time, learned counsel for the petitioner seeks to withdraw the petition with liberty to approach the concerned Court in terms of the notification No. G.S.R. 570(E) dated 25.08.1993, which reads as under:

**“MINISTRY OF EXTERNAL AFFAIRS
NOTIFICATION**

New Delhi, the 25th August, 1993

G.S.R. 570(E).—In exercise of the powers conferred by clause (a) Section 22 of the Passports Act 1967 (15 of 1967) and in supersession of notification of the Government of India in the Ministry of External Affairs No. G.S.R. 298(E), dated the 14th April, 1976, the Central Government, being of the

opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely :—

- (a) the passport to be issued to every such citizen shall be issued—
 - (i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or
 - (ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year;
 - (iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or
 - (iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.
- (b) any passport issued in terms of (a) (ii) and (a) (iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;
- (c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;
- (d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time

during the continuance in force of the passport so issued.”

Learned counsel for the petitioner thus, prays for withdrawal of this petition with liberty to approach the concerned Court in terms of the notification dated 25.08.1993 (supra).

Mr. Ankur Sharma, Senior Panel Counsel, for respondent Nos.1 and 2 and Ms. Ambika Bedi, AAG, Punjab, for respondent No.3, put in appearance and submit in unison that there is no objection to the petitioner taking recourse to remedy provided under law.

Accordingly, liberty is granted to approach the concerned Court to avail remedy in terms of the aforenoticed statutory provisions, in accordance with law.

Dismissed as withdrawn with liberty as aforesaid.

December 01, 2022 <i>kapil</i>	(VIKAS SURI) JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No