

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

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CWP No.40342 of 2018 (O&M)

Date of Decision: 27.09.2022

Jaswinder Singh

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Swarn Tiwana, Advocate for the petitioner.

Ms. Amrita Singh, Advocate,
for the respondents.

VIKAS SURI, J. (Oral)

The petitioner by way of present petition under Article 226/227 of the Constitution of India is seeking issuance of a writ in the nature of mandamus, directing the respondents to re-issue the passport to the petitioner.

The facts in brief are that the passport issued earlier to the petitioner was valid up to 28.09.2004 and he moved an application for re-issue of passport on 28.08.2018 (Annexure P-3).

On the said application, the petitioner scheduled an appointment for 26.10.2018 (Annexure P-4).

It is averred that on 21.11.2018, the petitioner received a text message (Annexure P-5) through 'Short Message Service' (SMS), apprising him that police has submitted adverse report for the petitioner's current address. The petitioner has mentioned in his application (Annexure P-3) that he was implicated in case FIR No.53 dated 18.03.2011 under Sections 22/61/85 of the NDPS Act, 1985.

Learned counsel for the petitioner submits that the aforesaid FIR was registered at Police Station, Mandi Gobindgarh.

The petitioner was convicted vide judgment dated 05.06.2013 by the Special Judge, Fatehgarh Sahib. He was sentenced to undergo rigorous imprisonment for ten years for the commission of offence punishable under Section 22 of the NDPS Act and to pay a fine of Rs.1 lac and in default thereof to further undergo rigorous imprisonment for one year.

The said order is under challenge in CRA-S-2346-SB-2013, which is pending adjudication. On 26.02.2015, the sentence of the petitioner was suspended vide orders passed in CRM-20531-2014 (Annexure P-2).

On notice, a short reply has been filed, wherein it has been disclosed that the file has been closed on 06.05.2019.

The relevant portion of the affidavit reads as under:-

“2. That due to receipt of an adverse police report the passport was not issued to the applicant and his file has been closed on dated 06.05.2019.

3. That in this case if the applicant approaches this office with ne application along with copy of court judgment regarding acquittal in the above cited case or with the permission to travel abroad from the trial court, his application will be considered and processed as per rule.”

Learned counsel for the petitioner contends that there is no hesitation in approaching the passport authority with another application but by misconstruing the legal statutory provisions, as has been done earlier, the subsequent application is likely to meet the same fate.

Learned counsel for the petitioner would urge that in view of the fact that the petitioner was convicted on 05.06.2013 and the period of 5 years stipulated under Section 6(2)(e) of the Passports Act, 1967, stood expired on 06.06.2018, i.e. much prior to the date of the application on 28.08.2018, but passport was not issued and the file was closed.

Learned counsel for the respondents is not in a position to argue contrary to the statutory provisions. She would submit that in case the petitioner applies afresh, his application would be considered in accordance with law and the petitioner should file along with his application the relevant judgment and order with regard to the proceedings in the FIR case noticed above.

Heard learned counsel for the parties.

In view of the above and respective stand of the parties, the petition is disposed of with liberty to the petitioner to apply afresh, as per the submissions made hereinabove on behalf of the respondents, in accordance with law. On doing so, respondent No.2 would process the said application, as per the prescribed procedure.

The petition stands disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

September 27, 2022
vcgarg

Whether speaking/reasoned:	Yes
Whether reportable:	No