

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CWP-7142 of 2022

Date of Decision:25.01.2023

Harsimar Singh

....Petitioner(s)

Versus

Union of India and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Judgepreet Singh Warring, Advocate,
for the petitioner.

Ms. Anju Arora, Advocate, for
Ms. Alisha Arora, Advocate
for the respondents No.1 and 2.

Ms. Akshita Chauhan, DAG, Punjab.
Respondents No.3 and 4.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Artiles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to issue the passport to the petitioner.

Learned counsel for the petitioner submitted that the petitioner had applied for issuance of passport on 08.04.2021 and thereafter he visited number of times to the passport authorities but the same was not issued to him and no action has been taken on the application filed by the petitioner. He submitted that probably the reason for non-issuance of passport was that there was FIR

No. 102 dated 06.07.2019, under Sections 341, 379, 506, 109, 148, 149 IPC and 25, 27, 54, 59 of the Arms Act registered against the petitioner. He submitted that in the said FIR the police after investigation in fact exonerated the petitioner and submitted a cancellation report to the appropriate Court but at that point of time the learned Court did not accept the cancellation report and the matter was sent for re-investigation. He submitted that at the time when the reply was filed by the State in the present case, it has been so stated by the Deputy Superintendent of Police that after the matter was sent for re-investigation by the learned Court, the matter is still at the investigation stage. However, now when the matter was re-investigated, the police again prepared a cancellation report qua the petitioner and filed the cancellation report before the learned Judicial Magistrate Ist Class, Fazilka and now vide order dated 03.12.2022, the learned JMIC had accepted the cancellation report and in this way there is no FIR registered against the petitioner. Learned counsel also supplied a photocopy of the order dated 03.12.2022 passed by the learned JMIC, Fazilka and the same is hereby taken on record as Mark-X and the copy of the same has been supplied to the learned counsel for the respondents as well. Learned counsel also submitted that even otherwise also, the aforesaid FIR was only at the investigation stage and no other criminal case is pending against the petitioner since the learned Court had never taken cognizance of the FIR and therefore otherwise also the petitioner was entitled for the issuance of passport because there was no embargo under the law for issuance of passport and even cancellation report has been accepted by the learned JMIC, Fazilka but the passport authorities are still not processing the application filed by the petitioner for grant of passport.

Learned counsel appearing on behalf of respondents No.1 and 2 stated that in case the Court has already accepted the cancellation report in the aforesaid FIR qua the petitioner and there is no other impediment for issuance of passport to the petitioner, the passport authorities shall process the application filed by the petitioner strictly in accordance with law and take a final decision on the same.

In view of the aforesaid factual position as stated by learned counsel for the petitioner and also the order dated 03.12.2022 which has been passed by the Court of learned JMIC, Fazilka as per the photostat copy supplied by learned counsel for the petitioner, the present petition is disposed of with a direction to the passport authorities to consider the case of the petitioner afresh on the application filed by him for the grant of passport and take a final decision on the same within a period of four weeks.

It is made clear that in case the petitioner is found to be entitled for the grant of passport then the same shall be issued to him as early as possible and in case the petitioner is not found to be eligible or entitled for any reason then the concerned passport authorities shall pass a well-reasoned speaking order thereof strictly in accordance with law.

The entire exercise shall be carried out by the concerned passport authorities within a period of four weeks from today.

(JASGURPREET SINGH PURI)
JUDGE

January 25, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No