

2023:PHHC:044387

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

103

**CWP-5422 of 2023
Date of Decision:17.03.2023**

Anis Khan

....Petitioner(s)

Versus

Ministry of External Affairs and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Dr. Malvika Singh, Advocate,
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India praying for quashing of the order dated 02.12.2022 passed by respondent No. 2 (Annexure P-6) as being illegal, arbitrary and without jurisdiction and which directly impinges on the petitioner's right to travel abroad under Article 21 of the Constitution of India.

Learned counsel for the petitioner submitted that the petitioner had filed an application for grant of passport before the respondent No.2-Passport Authorities but the same has been declined on the ground that the petitioner has been convicted and against which an appeal has been filed before the High Court against the conviction order and his sentence was suspended. She submitted that in fact under the provisions of Section 6 (2) (f) of the Passports Act, 1967, it has been so provided that subject to the provisions of the Passports Act, the Passport Authorities shall refuse to issue a passport or travel document for visiting any foreign country and as per clause (f) in case the

proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal Court in India. She submitted that although an appeal is pending before the Appellate Court against the conviction order but the same cannot be considered as pending because the petitioner had already faced trial and therefore the impugned order Annexure P-6 which has been passed by the Regional Passport Authority, Delhi was erroneous.

She further submitted that even no opportunity of hearing was granted to the petitioner by the Regional Passport Authority.

I have heard the learned counsel for the petitioner.

The impugned order is an order which has been passed by which the grant of passport of the petitioner has been refused under Section 5(2)(c) read with Section 6 (2) (f) of the Passports Act, 1967. There is a statutory appeal against any order passed by an authority under the Act under Section 5(2)(c). Even in the impugned order, the petitioner has been advised to obtain the Court permission in accordance with the notification issued by the Government of India dated 25.08.1993. Apart from the above, it has also been observed in the order that if the petitioner is not satisfied with the decision of the RPO, Delhi, then he may appeal against the decision under Section 11 of the Passports Act. Therefore, this Court is of the considered view that since there is a specific statutory remedy under Section 11 of the Act available with the petitioner, he should have invoked the alternate remedy at the first instance.

In view of the above, the present petition is hereby dismissed.

In case the petitioner files a statutory appeal alongwith any application seeking condonation of delay, then the concerned appellate

authority shall consider the prayer of the petitioner for condonation of delay under the provisio of Section 11 (2) of the Passports Act sympathetically and also in the light of the fact that the petitioner had preferred this writ petition and time has been consumed in filing the present writ petition as well.

It is further directed that in case any appeal alongwith an application for condonation of delay is filed, then the same shall be considered and decided by the appellate authority as expeditiously as possible.

(JASGURPREET SINGH PURI)
JUDGE

March 17, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No