

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-8940 of 2019

Date of Decision:10.02.2023

Gulzar Singh

....Petitioner

Versus

Union of India and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Molly A. Lakhanpal, Advocate, for
Mr. Ranjan Lakhanpal, Advocate,
for petitioner.

Ms. Shweta Nahata, Advocate, for
respondents No.1 and 2.

Ms. Akshita Chauhan, DAG, Punjab
for respondents No.3 and 4.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents No.3 and 4 to give police clearance/No Objection to the petitioner and also seeking directions to respondents No.1 and 2 to issue the passport to the petitioner.

Learned counsel for the petitioner submitted that although the name of the petitioner had earlier figured in FIR No.29 dated 25.02.2017, under Sections 323, 341, 201, 34 IPC, registered at Police Station Patran, District Patiala, but during the course of investigation, he was found to be

innocent and even the challan was not presented against him. She submitted that even in the reply which has been filed by the Deputy Superintendent of Police, it has been so stated that he was kept in column No. 2 and challan was not filed qua the petitioner but it has also been stated that in future in case some application is filed under Section 319 of the Code of Criminal Procedure then in that situation he may be summoned and therefore the police cannot issue clearance for the issuance of passport. She submitted that such a stand taken by the police is not only illegal and arbitrary but it is against the spirit of judgment passed by the Hon'ble Supreme Court **Maneka Gandhi versus Union of India** 1978 (1) SCC 248. She submitted that for a large number of years the petitioner had been going from pillar to post for seeking the passport and the same has not been given to him despite the fact that there was no bar or any embargo against him.

Ms. Shweta Nahata, learned counsel appearing on behalf of the respondents-passport authorities submitted that in the absence of police clearance the passport could not be issued to the petitioner and now the file pertaining to the application filed by the petitioner for the grant of passport has since been closed in the year 2019. She submitted that in case there is no criminal proceedings pending against the petitioner then in case the petitioner files any fresh application for grant of passport, then the same shall be considered and finalized within a period of one month.

I have heard the learned counsels for the parties.

The petitioner had filed an application for grant of passport but the file was closed by the passport authorities because the police did not give

clearance report. A perusal of the reply filed by the police would show that a very strange stand has been taken by the Deputy Superintendent of Police that although the petitioner has been exonerated and kept in column No. 2 and no challan has been presented against him but there was an apprehension of future application under Section 319 of the Code of Criminal Procedure. Such an attitude of the State particularly when the issue pertains to grant of passport is deprecated by this Court. The police cannot travel beyond the provisions of law and therefore the stand taken by the police was totally illegal. Be that as it may, now as per learned counsel for the passport authorities, the file of the petitioner for grant of passport had already been closed and in case he files a fresh application as per learned counsel for the passport authorities, then the same shall be considered within a period of one month.

In view of the above, the present petition is disposed of, with the following directions:-

- 1) The petitioner shall be at liberty to file a fresh application for grant of passport.
- 2) In the event when the petitioner files a fresh application for grant of passport, then the passport authorities shall seek fresh police verification. The State of Punjab and especially the police department is directed to provide the police verification to the passport authorities within a period of one week from the receipt of requisition from the passport authorities for police verification and the police verification shall be considered strictly in accordance with law.

3) Thereafter, the passport authorities shall consider the fresh application of the petitioner strictly in accordance with law and will finalize the same within a period of two weeks thereafter. The entire process shall be completed within a period of one month from the date of application filed by the petitioner for grant of passport.

 In view of the aforesaid directions, the present petition stands disposed of accordingly.

(JASGURPREET SINGH PURI)
JUDGE

February 10, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No