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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision: 21.07.2023

Tavisha Aaswani And Another

...Petitioners

Versus

Union of India and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Deepak Jindal, Advocate for the petitioners

Mr. Indresh Goel, Senior Panel Counsel
for Union of India-respondents

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking direction to respondents to issue passport to petitioner No.1.

2. Petitioner No.1 is a minor daughter of petitioner No.2. The petitioner No.2 had solemnized marriage with Sachin Aaswani on 17.04.2016. Two children were born from this wedlock. Petitioner No.2 is not having good relations with her husband and they are staying separate from each other. Petitioner No.2 has applied for passport of petitioner No.1 along with Form 'C' i.e. declaration where consent of single parent is available in case of passport of a minor child. The respondent-authority has not issued passport on the ground that neither consent of father is on record nor petitioner No.2 has placed on record custody certificate of petitioner No.1.

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3. Learned counsel for the petitioner submits that as per guidelines available on the official website of Passport Authority i.e. passportindia.gov.in, passport may be issued to a minor child on the basis of consent of one parent.

4. Mr. Indresh Goel, Advocate, who on advance notice is present in Court for the respondents, does not dispute the veracity of instructions available on the official website, however, submits that as per his instructions, passport cannot be issued to a minor in the absence of custody certificate or any other evidence of custody.

5. The Central Government in 'Question-Answer Form' has issued instructions (Annexure P-3) with respect to special cases of minors. Question Nos.4 & 7 as pointed out by learned counsel for the petitioner are relevant to the present case which are reproduced as below:-

“Q4: Single separated parent

A: In case one married parent has terminated the relationship with the other parent without a formal divorce, declaration in the format of Annexure 'C' may be accepted from the parent having the custody of the child.

XXXX

XXXX

XXXX

Q7: Children of married parents, abandoned by other parent

A: In cases where: (i) the married parent who is an Indian citizen, claims that the father had no contact with the mother or the child after the birth of the child; or where (ii) the father has terminated the relationship with the mother

and the child after conception/birth of the child, a declaration in Annexure ‘C’ shall be submitted by the parent with the custody of the child. Cases where a biological married/unmarried father who is an Indian citizen seeks passport for his child claiming that the biological mother has abandoned the child, the procedure as applicable for single mother would apply mutatis mutandis”.

6. Mr. Deepak Jindal, learned counsel for the petitioner submits that respondent No.2 may be directed to decide case of the petitioner in the light of aforesaid Instructions.

7. Mr. Indresh Goel, learned counsel for the respondents does not dispute the said prayer of the petitioner.

8. Without commenting upon merits of the case and in view of statements of both sides, the present petition stands disposed of with a direction to respondent No.2 to decide application of the petitioners in light of the aforesaid instructions.

Needful be done within 8 weeks from today.

(JAGMOHAN BANSAL)
JUDGE

21.07.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>