

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

204**CWP-18691 of 2022****Date of Decision:28.03.2023**

Mubarak Singh Sandhu

....Petitioner(s)

Versus

Union of India and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. K.R. Dhawan, Advocate,
for the petitioner.

Mr. Karan Kumar Jund, 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 writ petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of *mandamus* directing respondent No.1 to release the passport of the petitioner.

Learned counsel for the petitioner submitted that it is a case where the petitioner had applied for a passport which was duly granted to him on 27.10.2020. However, notice dated 11.05.2021 (Annexure P-4) was received by him in which it was stated that he has suppressed the material facts and therefore why an action should not be taken against him under Section 10(3)(b) of the Passports Act with regard to the registration of an FIR against him under Sections 406, 498-A and 120-B IPC to which he replied immediately to the Passport Authorities vide Annexure P-8 in which the entire position was

explained to the Passport Authorities at the time of the application for the grant of passport. He submitted that at the time of the submission of application for grant of passport, there was no FIR against the petitioner nor any name was nominated qua him and with regard to the same he also referred to Annexure P-6 dated 26.11.2020 in which recommendations were made by the Addl. Deputy Commissioner, Police Zone-1, Ludhiana that the petitioner be also nominated in the FIR and this happened after the issuance of the passport and therefore there was no question of suppression of any material facts. He submitted that thereafter vide Annexure P-9 without even considering as to what the petitioner has stated in the reply, an illegal order was passed by stating that he is directed to surrender the passport since an FIR has been registered against him.

Thereafter, he again requested the Passport Authorities vide Annexure P-10 for giving the entire details once again but nothing was done and therefore the petitioner vide Annexure P-11 dated 28.05.2021 surrendered the passport to the Passport Authorities which he was constrained to do so, although it was an illegal action on the part of the Passport Authorities. He submitted that even thereafter he has been communicated through letter vide Annexure P-12 whereby the petitioner was required to furnish a proper explanation regarding the circumstances in which he has suppressed material information in the application for the grant of passport. He submitted that such a conduct of the Passport Authorities was illegal and violative of the provisions of the Passports Act.

On the last date of hearing i.e. on 01.03.2023 the Regional Passport Officer was present and today also the Regional Passport Officer is

present in the Court and she was granted some time to take corrective measures if so warranted under the law.

Mr. K.R. Dhawan, learned counsel for the petitioner further submitted that yesterday he received an e-mail from the Passport Authorities in which notice has been issued to the petitioner that discreet enquiry has been conducted and it has been informed that the petitioner has been charge-sheeted and a show cause notice has been issued to him as to why his passport be not impounded within seven working days and this notice was in supercession of all the previous communications issued by the office of the Passport Authorities. He submitted that once the passport itself is in the possession of the Passport Authorities by way of an illegal and improper method, the said notice was not only without any authority of law but also for not warranted.

On the other hand, Mr. Karan Kumar Jund, learned counsel appearing on behalf of respondents No.1 and 2-Passport Authorities alongwith Ms. Priyanka Mehtani, Regional Passport Officer, Chandigarh who is present in the Court submitted that now after taking corrective measures respondents-Passport Authorities have now issued show cause notice dated 27.03.2023 regarding which a copy of an e-mail has been supplied by learned counsel for the petitioner to this Court. He submitted that this power has been exercised under Section 10(3)(e) by which the Passport Authority is empowered to issue any show cause notice and thereafter after following a proper procedure to impound the passport on the ground that even after issuance of the passport, in case any criminal proceedings are pending against the concerned person then the passport can be impounded by following due procedure. He submitted that it is only a notice which has been issued but no final order has been passed as

of date and the petitioner should file a reply to the aforesaid notice and thereafter on the basis of considering the reply which the petitioner may file, a well reasoned speaking order will be passed as to whether the passport of the petitioner should be impounded or not. He submitted that even in case the petitioner wishes to seek any opportunity of being heard either himself or through the counsel, the same shall also be provided to the petitioner or his counsel in this regard.

At this stage, learned counsel appearing on behalf of the petitioner submitted that the aforesaid period of seven days is very less time and the aforesaid time may be extended to at least four weeks so that the petitioner or his counsel may be given right of hearing before the Passport Authorities.

I have heard the learned counsel for the parties.

During the pendency of the present petition, a show cause notice dated 27.03.2023 has been issued by the Passport Authorities to the petitioner and a photocopy of the same has been supplied to this Court by learned counsel for the petitioner which is taken on record as Mark-'X'. The said show cause notice as per learned counsel for the respondents-Passport Authorities has been issued under Section 10(3)(e). Learned counsel for the petitioner has stated that some more time may be granted to him so that he can respond to the show cause notice. The request made by learned counsel for the petitioner is just and proper. It is directed that instead of seven working days, the petitioner shall be permitted total four weeks from today. Learned counsel for the petitioner submitted on instructions from the petitioner who is present in the Court that the petitioner will appear before the Regional Passport Authorities, Chandigarh on 10.04.2023 at 11:00 AM and also supply various documents to support his

case. The Regional Passport Officer who is present in the Court is also directed to hear the petitioner on the aforesaid date. Thereafter, it is expected that a well reasoned speaking order shall be passed on the aforesaid notice issued by the Passport Authorities on 27.03.2023, which shall be communicated to the petitioner.

Needless to say that in case the petitioner feels aggrieved by the aforesaid order if any passed against the petitioner, he shall be at liberty to approach this Court by filing a fresh petition.

The present writ petition stands disposed.

(JASGURPREET SINGH PURI)
JUDGE

March 28, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No