

222

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-19783-2020

Date of Decision: 09.03.2023

Balbir Singh

..... Petitioner

Versus

Regional Passport Officer and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ramandeep, Advocate
for the petitioner.

Mr. Ankur Sharma, Senior Panel Counsel,
for respondent No.1.

Mr. Sandeep Chopra, DAG, Punjab,
for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ, order or direction especially in the nature of *mandamus* directing the respondent No.1 to renew/re-issue the passport to the petitioner.

Learned counsel for the petitioner has submitted that the petitioner had filed an application for grant of passport on 31.08.2020 vide Annexure P-1, and thereafter, the Passport Authority did not take any action for the issuance of the passport in view of the fact that there was an adverse report against the petitioner pertaining to an FIR bearing No.167 dated 02.07.2008, under Sections 420, 465, 467, 468, 471 & 120-B IPC, registered at Police Station Sadar Samana, District Patiala. He further submitted that in fact the police itself had filed a cancellation report before the learned Magistrate and there are

no proceedings pending against the petitioner and today a status report by way of an affidavit of Deputy Superintendent of Police, Circle Samana, District Patiala has been filed in Court, in which it has been stated that on reinvestigation a cancellation report under Section 173 Cr.P.C. has been filed and in view of the above, there is no impediment for the Passport Authority for not granting passport to the petitioner. Therefore, necessary direction may be issued to the Passport Authority for the same.

Mr. Sandeep Chopra, learned DAG, Punjab has filed a status report by way of an affidavit of Deputy Superintendent of Police, Circle Samana, District Patiala in the Court today with a copy to the learned counsel for the petitioner. The aforesaid affidavit is hereby taken on record. He while referring to Para No.12 of the aforesaid affidavit has stated that after the cancellation report has been filed before the learned Magistrate in the aforesaid FIR, an opinion was also obtained from the District Attorney (Legal), Patiala and it is so stated that there is no legal impediment for recommending the passport to the petitioner. Para No.12 of the affidavit is reproduced as under:-

12. That now an opinion from District Attorney (Legal) Patiala has been obtained as to if recommendation can be made regarding passport of the present petitioner. As per opinion dated 16.02.2022 given by District Attorney (Legal), Patiala, neither report U/s 173 Cr.P.C. has been presented against petitioner nor the petitioner is pronounced as guilty/accused by Court, thus, there is no legal impediment for recommending the passport of the petitioner. The said legal opinion has been duly agreed upon by the Senior Superintendent of Police, Patiala. True translated copy of legal opinion is attached herewith as Annexure R-1/T.

Mr. Ankur Sharma, Advocate appearing on behalf of the Passport

Authority and has submitted that since the application is of the year 2020, the status of the application is required to be ascertained. He further submitted that in case the application is still alive, then the same shall be considered in accordance with law in view of the aforesaid affidavit filed by the State and in case the application filed by the petitioner is closed, then the petitioner may file a fresh application for grant of passport in accordance with law and the same will also be considered and finalized as expeditiously as possible.

I have heard the learned counsel for the parties.

The petitioner had applied for the grant of passport in the year 2020. At that point of time, there was an adverse report against the petitioner in view of the pendency of the FIR. As per the affidavit filed by the Deputy Superintendent of Police in the Court today, the police has already filed a Cancellation Report before the learned Magistrate and has also stated in Para No.12 that there is no legal impediment for recommending the passport to the petitioner and the legal opinion given by the District Attorney (Legal), Patiala has already agreed upon by the Senior Superintendent of Police, Patiala. Therefore, there is no impediment for grant of passport to the petitioner on the basis of the aforesaid FIR.

In view of the above, the present petition is disposed of with a direction to the Passport Authority-respondent No.1 that in case the application dated 31.08.2020 filed by the petitioner is pending/alive then the same shall be processed and finalized within a period of three weeks from today in the light of the stand taken by the Deputy Superintendent of Police in Para No.12 of the affidavit. However, in case, the aforesaid application has already been closed by the Passport Authority, then the petitioner shall be at liberty to file a fresh application in accordance with law within a period of three weeks from today

and in the event of filing of fresh application, then the Passport Authority shall consider and finalize the same within a period of three weeks thereafter, in the light of the aforesaid affidavit filed by the State and in accordance with law.

09.03.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |