

103

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

CWP-24200-2022

Date of Decision: 24.01.2023

Gaurav

..... Petitioner

Versus

Union of India and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Abhimanyu Batra, Advocate for the petitioner.

Ms. Shweta Nahata, Advocate for respondents-UOI.

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 the respondents to remove the objections raised by respondent No.2 upon the passport application of the petitioner and to further allow the application for renewal of the passport of the petitioner and to renew the passport of the petitioner.

Learned counsel for the petitioner has submitted that the petitioner was having valid passport in his name and was due to expire on 14.10.2022 and before it could expire the petitioner filed an application for renewal of the same but the same has not been renewed by the Passport Authority on the ground that the petitioner is facing trial in FIR No.904 dated 14.11.2015 under Sections 420, 120-B, 468 IPC and Section 66 of the I.T. Act, registered at Police Station City, Jind. He has relied upon the judgment of the Delhi High Court passed in

Criminal Appeal No.686 of 2018 titled as “***Ashok Khanna Vs. Central Bureau***

of Investigation” decided on 07.11.2019 to contend that whenever a criminal trial is pending against an applicant, the issuance of passport can be refused under Section 6(2)(f) of the Passport Act but when it is a prayer for renewal of passport then the respondents do not have authority to refuse the renewal of the passport because for the purpose of renewal of the passport the aforesaid provision will not apply as it applies only for the issuance of the passport.

On the other hand, Ms. Shweta Nahata, Advocate has caused appearance on behalf of the respondents-UOI has stated that first of all in the aforesaid judgment an application was filed after the decision thereof and it has been so observed in the review order dated 31.08.2020 that the orders have already been complied with and passport has been issued but the learned Assistant Solicitor General of India had informed the Court that the provision for renewal of the passport is no longer available throughout India, and therefore, the Hon'ble Delhi High Court made it clear that the orders passed in the aforesaid judgment shall not form a precedent. She further submitted that in view of the aforesaid position that the judgment passed by the Delhi High Court in **Ashok Khanna's case (supra)** will not become a precedent and also submitted that there is no provision for renewal of the passport and on expiry of the passport it is to be applied and it has to be freshly issued. She further submitted that even otherwise also the passport of the petitioner has already expired in the month of October, 2022 and no occasion has arisen for renewal of the passport after the expiry of the same. She also submitted that as per the provisions of Section 6(2)(f) of the Passport Act, the Passport Authority shall refuse to issue the passport or travel document for visiting any foreign country under Section 5(2)(c) of the Passport Act on the ground that proceedings in respect of an offence alleged to have been committed by the applicant are pending before any of Criminal Court in India.

She submitted that in view of the aforesaid legal position, it is incumbent upon the Passport Authority to refuse the issue of a passport or travel document in case it falls under the aforesaid category. She further submitted that although no order has been passed by the Passport Authority refusing the renewal of the passport which otherwise they ought to have passed but now considering the facts and circumstances of the present case, where the passport of the petitioner has already expired in the month of October, 2022, there is no occasion for them to pass any order in this regard. She has, therefore, prayed for dismissal of the present petition.

I have heard the learned counsel for the parties.

The grievance of the petitioner is that his passport has not been renewed by the Passport Authority. However, as per the learned counsel for the parties, the passport of the petitioner has already expired in the month of October, 2022. Therefore, this Court is of the view that there is no occasion for the Passport Authority to renew the passport which has already expired. So far as the aforesaid judgment passed in *Ashok Khanna's case (supra)* is concerned, the Delhi High Court has already clarified the same by passing the order dated 31.08.2020 that it will not form a precedent.

Consequently, finding no merit in the present petition, the same is hereby dismissed.

However, it is made clear that in case the petitioner wishes to take any steps for issuance of fresh passport in accordance with law before an appropriate authority/Court then the present order would not be an impediment for the same.

24.01.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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