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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-28879-2022 (O&M)
Date of Decision: 20.03.2023

Mandeep Singh

....Petitioner(s)

Versus

Union of India and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. P.S. Jammu, Advocate,
for the petitioner.

Ms. Monica Chawla, Advocate,
for respondents No.1 and 2.

Ms. Nidhi Garg, AAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of *Certiorari* for quashing the order dated 06.01.2022 (Annexure P-8) vide which the passport of the petitioner has been impounded.

Learned counsel for the petitioner has submitted that the petitioner had applied for the passport in the year 2018 and just prior to that in the year 2017, there was an FIR pending against the petitioner. He submitted that in the form whereby the passport is to be applied there is no specific column for the purpose of disclosing as to whether there is an FIR against the applicant or not, although there are different columns pertaining

to the pendency of the criminal proceedings. He submitted that since there was no criminal proceedings pending against the petitioner and there is no particular column pertaining to FIR, the said pendency of FIR was not disclosed and therefore it does not constitute suppression of material facts. He submitted that as per the respondent-Passport Authorities, a show-cause notice was issued to the petitioner but the same was never received by the petitioner and in this way, straightway the impugned order Annexure P-8 by which the passport of the petitioner has been impounded was passed. He submitted that even the aforesaid order for impounding was also not supplied to the petitioner and ultimately the petitioner had to file an application under RTI Act for the purpose of getting the aforesaid order and thereafter immediately he had filed the present petition.

Learned counsel submitted that it is a settled law that mere pendency of an FIR would not mean that the passport is not to be granted because no such specific ground is existing under Section 6 of the Passports Act. He further submitted that even it does not constitute suppression of any material fact in view of the fact that there was no particular column in the form by which he had applied. He also referred to a judgment of this Court in ***Sukhdeep Singh Versus Union of India and another, 2021 (4) PLR 529*** to contend that even if assumingly there was an FIR and it has been disclosed even then the passport of the petitioner could not have been rejected because it is a settled law that mere pendency of an FIR would not become a ground for rejection of the passport in view of the judgments of this Court in ***Daler Singh Vs. Union of India and others [2015(8) RCR (Civil) 618]*** and ***Sahib Jaskaran Singh Versus Union***

of India and others [CWP No.19551 of 2015].

On the other hand, Ms. Monica Chawla, Advocate appearing on behalf of the respondent-Passport Authorities has taken up a preliminary objection by which she has stated that the impugned order has been passed under Section 10(3) of the Passports Act against which there was a statutory appeal maintainable under Section 11 of the Passports Act and the petitioner has not availed the same and in the absence of availing of aforesaid alternate statutory remedy of appeal, the present petition is not maintainable.

At this stage, learned counsel appearing on behalf of the petitioner has submitted that in that eventuality the petitioner will file a statutory appeal before the concerned Appellate Authority under Section 11 of the Passports Act. He has however prayed that since there is a period of limitation for filing the appeal, the same may not come into his way. He further submitted that even the impugned order was not supplied to the petitioner and he had to file an RTI application for obtaining the same and thereafter he approached this Court and therefore the time taken in the aforesaid process would become a ground for not only condonation of delay but also exclusion under Section 14 of the Limitation Act.

In view of the aforesaid facts and circumstances and after hearing the learned counsel for the parties since the parties are *ad idem* that the petitioner may file the statutory appeal which is available to the petitioner under Section 11 of the Passports Act, the petitioner is relegated to the statutory appeal which is available to him under Section 11 of the Passports Act. So far as the delay in filing the appeal is concerned, the

petitioner shall be at liberty to take all the aforesaid submissions including the submission that he was not even supplied the copy of the impugned order and the time which is taken by this Court in the writ petition under Article 226 of the Constitution of India is to be excluded.

It is expected that the Passport Authorities in view of the aforesaid circumstances shall consider the prayer of the petitioner for condonation of delay sympathetically and in accordance with law.

Needless to say that the aforesaid judgments which have been cited by the learned counsel for the petitioner shall also be taken into consideration.

The present petition stands disposed of accordingly.

20.03.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No