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IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

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Reserved on:16.09.2024.
Date of Decision: 01.10.2024.

(1) CWP-1953-2024 (O&M).

REGIONAL PASSPORT OFFICE, CHANDIGARH AND OTHERS

... Petitioners

Versus

PERMANENT LOK ADALAT (PUBLIC UTILITY SERVICES)
LUDHIANA AND ANOTHER

... Respondents

(2) CWP-6801-2024 (O&M).

REGIONAL PASSPORT OFFICE AND ANOTHER

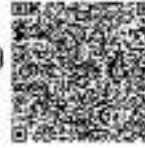
... Petitioners

Versus

PERMANENT LOK ADALAT (PUBLIC UTILITY SERVICES)
SANGRUR AND OTHERS

... Respondents

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CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Argued by: Mr. Indresh Goel, Advocate,
for the petitioner(s).

Mr. Z.S. Chauhan, Advocate,
for respondent No.2 in CWP-1953-2024.

Mr. Vivek Singh, Advocate,
for respondent No.2 in CWP-6801-2024.

VINOD S. BHARDWAJ, J.

1 The question that arises for consideration before this Court in these writ petitions is whether issuance of Passport would fall within “immigration services” and amenable to the jurisdiction of the Permanent Lok Adalat (Public Utility Services), under the Legal Services Authorities Act, 1987. Since the above issue is under consideration in both these writ petitions, they are being decided by a common judgment. The facts, however, are being extracted from CWP-1953-2024 titled as ‘**Regional Passport Office, Chandigarh and others vs Permanent Lok Adalat (Public Utility Services), Ludhiana and another**’.

2 Challenge in the above petition is to the award dated 20.10.2023 passed by respondent No.1- Permanent Lok Adalat (Public Utility Services), Ludhiana in Case No. 1055/18.07.2023, whereby the petitioners were directed to prepare and dispatch the passport of respondent No.2- Manan Takkar within a period of 7 days from the passing of impugned award and were further held liable to pay a cost of Rs.1000/- per

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day delay in doing the needful. A prayer has also been made for setting aside the impugned order dated 24.11.2023 passed in Execution Application No.28 of 2023 for attachment of salary and official property of the present petitioners. Further prayer has been made for declaring and holding that the Permanent Lok Adalat (Public Utility Services) lacks the jurisdiction to entertain disputes involving grant of passports and other related functions, which are governed by the Passports Act, 1967.

3 Briefly summarized the facts of the present case are that respondent No.2/complainant- Manan Takkar had applied for grant of passport, with changed particulars with respect to his father's name, before the petitioners in July 2023 as he had been adopted by one Charanjit Singh, with whom his divorced mother has solemnized marriage. The said change in the name of respondent No.2/complainant's father was sought to be incorporated on the basis of an unregistered adoption deed, which was in Punjabi language. Petitioners' office raised objections regarding issuance of passport on various grounds and addressed a letter dated 05.12.2023 to the respondent-complainant in this regard.

4. Aggrieved thereof, respondent No.2 filed the application No.1055 dated 18.07.2023 before the Permanent Lok Adalat (Public Utility Services), Ludhiana and vide impugned order dated 20.10.2023, the Permanent Lok Adalat allowed the application of respondent No.2/complainant. The relevant part of the order is extracted hereunder:

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“Respondent no.1 is directed to prepare and dispatch the passport of the applicant within 7 days from the date of receipt of copy of this award without fail and in case of non-compliance, the respondent no.1 shall be liable to pay a compensation/cost of Rs.1000/- per day delay in preparing and dispatching the passport to the applicant and half of such amount shall go to DLSA and other half shall be paid to the applicant, if it so happens.”

5 Subsequently, respondent No.2/complainant filed for execution proceedings before the Permanent Lok Adalat by way of Execution Application No.28 of 24.11.2023 and vide order dated 24.11.2023, the Permanent Lok Adalat issued warrants of attachment of properties of the petitioners’ office.

6 Hence, the present petition.

7 Counsel for the petitioners relied on Section 22 (A) (b) of the Legal Services Authorities Act, 1987 to argue that the abovesaid section does not mention anything related to passport, regional passport office or Ministry of External Affairs. He averred that there is neither any notification in this regard by the Central government nor has it been held in any judicial verdict that would empower the Permanent Lok Adalat to entertain any complaint related to passports. He also referred to Sections 5, 6, 11 and 17 of the Passports Act, 1967 to argue that the Act is a complete code within itself, containing a full mechanism for making applications and redressal of

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grievances thereto. He further went on to state that issuance of passport is a sovereign function and that the Passport Officer performs scrutiny by seeking necessary assistance from the Ministry of Home Affairs, Ministry of External Affairs and local police authorities for conducting police verification before deciding as to whether the passport has to be granted or not since the same involves security, reputation and image of the country.

8 Per contra, learned Counsel for respondent No.2/complainant argued that the Permanent Lok Adalat had the requisite jurisdiction to entertain the complaint since the Punjab government had already notified “Immigration Services” as a Public Utility Service under Section 22(A)(b) of Legal Services Authorities Act, 1987 vide Memo No. S.O.147/C.A.39/1987/S.22-A/2018 dated 12.10.2018 and that the Permanent Lok Adalat has rightly passed the award in favour of respondent No.2/complainant.

9 No other argument has been raised.

10 I have heard learned Counsel for the respective parties and have gone through the documents appended along with the present petition.

11 Before proceeding further in the case, it would be necessary to refer to certain relevant sections under the Passports Act, 1967 which are extracted as under:-

“5. Applications for passports, travel documents, etc, and orders thereon. — [(1) An application for the issue of a passport under this Act for visiting such foreign country or countries (not being a named foreign country) as may be

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specified in the application may be made to the passport authority and shall be accompanied by [such fee as may be prescribed to meet the expenses incurred on special security paper, printing, lamination and other connected miscellaneous services in issuing passports and other travel documents].

Explanation. —In this section, “named foreign country” means such foreign country as the Central Government may, by rules made under this Act, specify in this behalf.

(1A) An application for the issue of—

(i) a passport under this Act for visiting a named foreign country; or

(ii) a travel document under this Act, for visiting such foreign country or countries (including a named foreign country) as may be specified in the application or for an endorsement on the passport or travel document referred to in this section, may be made to the passport authority and shall be accompanied by such fee (if any) not exceeding rupees fifty, as may be prescribed.

(1B) Every application under this section shall be in such form and contain such particulars as may be prescribed.]

(2) On receipt of an application [under this section], the passport authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing, —

(a) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign country or countries specified in the application; or

(b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign

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countries specified in the application and refuse to make an endorsement in respect of the other country or countries; or
(c) refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement.

(3) Where the passport authority makes an order under clause (b) or clause (c) of sub-section(2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such copy.

6. Refusal of passports, travel documents, etc.— *(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: —*

(a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;

(b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;

(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country;

(d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

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(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: —

(a) that the applicant is not a citizen of India;

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;

(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

(e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

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(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.

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11. Appeals. — *(1) Any person aggrieved by an order of the passport authority under clause (b) or clause (c) of sub-section (2) of section 5 or clause (b) of the proviso to section 7 or sub-section (1), or sub-section (3) of section 10 or by an order under sub-section (6) of section 10 of the authority to whom the passport authority is subordinate, may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:*

Provided that no appeal shall lie against any order made by the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfied the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963 (36 of 1963), with respect to the computation of the periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and [by such fee as may be prescribed for meeting the expenses that may be incurred in calling for relevant records and for connected services].

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(5) In disposing of an appeal, the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity or representing his case.

(6) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

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17. Passports and travel documents to be property of Central Government. —A passport or travel document issued under this Act shall at all times remain the property of the Central Government.

11 In the said background, it would now be necessary to understand that as against the issuance of passport, the “immigration” is governed by the following Central Acts:-

(i) **The Foreigners Act, 1946** to regulate the entry, stay and exit of foreigners in India which includes power of their arrest, detention and deportation.

(ii) **The Passport (Entry in India) Act, 1920**, to regulate entry of Foreign Nationals, impose conditions or restrictions and to empower the Government to remove foreigners without valid documents.

(iii) **The Citizenship Act, 1955**, which deals with acquisition, termination and renunciation of Indian citizenship along with citizenship matters.

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(iv) **The Registration of Foreigners Act, 1939**, mandating registration of foreigners staying beyond the prescribed period for security and monitoring purposes.

12 Apart from the above, crucial primary Acts, there are other enabling Acts and orders that may be issued by the Government to regulate the VISA and immigration policies.

13 By the very nature of the expression used, “immigration” refers to the process of moving into a country to live in, work or settle. The services that are largely primarily linked to immigration are:-

- a. Issuing Visas for foreign nationals.
- b. Providing residency or work permits.
- c. Processing citizenship applications.
- d. Asylum and deportation services/applications.

14 The focus of immigration is on people entering the country and are necessarily foreigners.

15 To the contrary, the passport is generally a form of identification and proof of citizenship and is a document required for the citizen to travel internationally. It is issued to a citizen of the country, who would not require an “immigration service” for travelling within the country but may need the same for going to some other country. But such a service would essentially be an “emigration service”, if sought within the country.

“Emigration Service” is, however, not notified as a public utility service.

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16 On consideration of the above aspects, it is clear that “Passport” and “immigration” operate in different spheres and cannot be used as synonyms. A specific and limited nature of activity cannot be expanded to bring into its fold the activity under a different statutory regime of Passports Act, 1967. The same is essentially a sovereign function and the document essentially remains the property of the Central Government as per Section 17 of the Act of 1967.

17 Further, the Hon’ble Supreme Court in the matter of *Nrisingha Murari Chakraborty Vs. State of West Bengal; 1977 (3) SCC 7* that passport is a property and is a thing capable of ownership. The “passport” or its issuance is not necessarily a service but a sovereign function. As a sovereign authority, the Regional Passport Officer does not carry on any commercial or service oriented activity and an applicant for a passport cannot be termed as a consumer against the sovereign. Hence, a Regional Passport Officer cannot be said to be the service provider and in the absence of any relationship of service provider and recipient and when the core activity is non-commercial sovereign function, it would not satisfy the requirement of a Public Utility Service.

18 Hence, for the foregoing reasons, I am of the view that the Permanent Lok Adalat (Public Utility Services), did not have the jurisdiction to direct the Passport Officer to issue a passport as the same would not fall in the definition of an “immigration service.” The Permanent Lok Adalat (Public Utility Services) thus erred in exercising jurisdiction

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and allowing the application. The present writ petitions thus deserve to be allowed. The award dated 20.10.2023 passed by respondent No.1- Permanent Lok Adalat (Public Utility Services), Ludhiana in Case No. 1055/18.07.2023 challenged in CWP-1953-2024 and the award dated 30.11.2023 passed by respondent No.1- Permanent Lok Adalat (Public Utility Services), Sangrur in Case No. 140 dated 10.11.2022 challenged in CWP-6801-2024, are set aside.

19 Since these writ petitions are being allowed on the ground of maintainability, hence, I do not deem it fit or appropriate to advert to the merits lest it may cause prejudice to the rights of the parties.

20 A photocopy of the order be placed on the file of connected case.

October 01, 2024
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No