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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 01st October, 2024

+ **W.P.(C) 12597/2024**

MR. AMARDEEP SINGH BEDI

.....Petitioner

Through: Mr. Rajiv Arora, Mr. S.P. Arora,
Advocates

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Farman Ali, SPC with Ms. Usha
Jamnal, Mr. Hussain Adil Taqvi,
Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner is an Indian national having a valid Indian passport bearing No. Txxxxxxx2 (masked for privacy concerns) issued by the Regional Passport Office in Delhi, India. This passport has been renewed and is valid up to 01st May, 2029.
2. The Petitioner, along with his proprietary concern, M/s Bedi & Bedi Associates, is currently facing two FIRs — No. 15/2013 and No. 58/2013 — registered at P.S. Deshbandhu Gupta Road, Karol Bagh, New Delhi-110005. These FIRs were filed based on complaints from Enforcement Officers of the Employees Provident Fund Organization, alleging that while the



Petitioner deducted Provident Fund¹ contributions from the wages of employees working at DMRC and NPL sites, he failed to deposit the same in accordance with the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952².

3. Post registration of the FIRs, a quasi-judicial enquiry under Section 7A of the EPF Act was conducted by the Regional Provident Fund Commissioner, Delhi (North)³. This inquiry culminated in an order dated 28th September, 2019 under Section 7A of the EPF Act to the effect that both the Petitioner and the Principal Employer were jointly and severally liable to deposit the PF contributions as mandated by the EPF Act. Consequently, the Petitioner was directed to deposit a sum of INR 7,485,753/- as assessed by the RPFC. This amount was duly paid by the Petitioner through a demand draft dated 20th March, 2019. Further, the Petitioner has filed petitions seeking the quashing of the aforementioned FIRs, which are pending consideration before this Court.

4. In light of the aforementioned background, the Petitioner's grievance stems from the Respondents' refusal to issue a Police Clearance Certificate⁴ which is a crucial requirement for applying under the Start-up Visa Programme at Canada, where the Petitioner intends to set up a business venture. According to Canadian Visa regulations, an applicant must submit a PCC from their country of residence to set up a business in Canada. In compliance with this requirement, the Petitioner submitted an application dated 15th April, 2024 with the Regional Passport Office for the issuance of the said PCC. This was

¹ "PF"

² "EPF Act"

³ "RPFC"

⁴ "PCC"



followed by a fresh application on 14th May, 2024 for the same purpose.

5. In order to address the objections of the Respondents, the Petitioner also approached the Trial Court where the criminal case against him is pending, seeking directions to the Regional Passport Office for the issuance of PCC. However, this request was denied on 26th June, 2024 with the Trial Court noting that it lacked the jurisdiction to issue such directions.

6. In view of this background, through the instant writ petition, the Petitioner has approached this Court under Article 226 of the Constitution of India, seeking a direction for the issuance of the PCC. Counsel for the Petitioner, Mr. Rajiv Arora, draws attention to multiple decisions from other High Courts that have addressed similar issues regarding the issuance of PCCs. He particularly relies on a judgment by the Kerala High Court dated 16th September, 2021, passed in W.P.(C) 17201/2024 titled “*Siju v. Regional Passport Officer*”⁵, wherein the Court had ruled as follows:

“5. It is evident from the specimen referred to above that a person is entitled to Police Clearance Certificate, only if there is no adverse information which would render him/her ineligible for grant of travel facilities. There Is no dispute to the fact that the pendency of a criminal case is not a reason which would render a person Ineligible for grant of travel facilities in India. The requirement of law is that if there is a criminal case pending, one is entitled to travel only with the permission of the court before which the case is pending. As far as the present case is concerned, the petitioner is permitted by the criminal court to go abroad to pursue his employment. Therefore, it cannot be said that the petitioner is ineligible for travel facilities. At the same time, It cannot be said that there is no adverse information against the petitioner.

6. It is relevant to note that this Court had in Jayan v. Union of India [(2018) 4 KLT 1077] observed that mere registration of a crime does not invoke either 5.6 or S.10 of the Passports Act,

7. In view of the above, notwithstanding the crime registered against

⁵ 2021 SCC OnLine Ker 9667



the petitioner as Crime No, 187/2021, there is no bar In Issuing a Passport to the petitioner, This is on account of two reasons (i) No “criminal proceedings” are pending in any court as contemplated under law, and (ii) even If it is deemed to be pending, since the petitioner has obtained permission from the Magistrate's Court, he can be issued with a valid Passport. If petitioner can be issued with a Passport, then it fails all logic to refuse to issue him a police clearance certificate by the Passport Authorities.

8. In such circumstances, there will be a direction to the respondent to issue Police Clearance Certificate to the petitioner, stating that there is a criminal case pending against the petitioner and that the criminal court has permitted the petitioner to go abroad to pursue his employment. Such a certificate can be issued by making appropriate changes in the specimen contained in Appendix-32 referred to above. This shall be done within a week from today.”

7. In light of the above decision, Mr. Arora submits that the Petitioner would be satisfied in case a similar direction is issued to the Respondents in the instant case. He clarifies that even if the PCC indicated the pending FIRs against the Petitioner, he would be able to fulfil the requirement of submitting the PCC and apply for the Visa; and therefore the rights of the Petitioner to travel abroad would not be prejudiced.

8. Mr. Farman Ali, SPC who represents Respondent No. 1, states that he will also be representing Respondent No. 2. He has handed over copy of a letter dated 03rd September, 2024 issued by Senior Superintendent, Regional Passport Office, Ministry of External Affairs. The letter outlines the ‘adverse’ report against the Petitioner, stating:

“2. As per the record available in the system, it is found that the petitioner has applied for PCC [Police Clearance Certificate] vide file number DL4086972584024 dated 15/04/2024 for Canada, for which, police authority submitted an ‘Adverse’ report stating therein as under:

“Applicant is outstation with family he reply on whatsapp he is out station and he not come ten days so his verification reject he again apply pcc his whatsapp screen shot attached. Hence adverse report submitted.”



3. The available records also reveals that the applicant instead of pursuing aforesaid application, has again applied for PCC vide file number DL4086981436624 dated 14/05/2024 for Canada, in which, police authority submitted again an 'Adverse' report stating therein as under:

"Applicant is citizen of India, he involved in case FIR NO. 15/2013 u/s 406/409/420 PS DBJ Road Delhi IPC and FIR NO. 58/2013 u/s 406/409 IPC PS DBJ Road Delhi, he not provided any court order and NOC. Hence the adverse report submitted."

4. It is further submitted that PCC is a distinct miscellaneous service. The purpose of PCC is to establish criminal antecedent of an applicant. Further, it is used by foreign countries to process long-term immigration requests of applicants who, inter alia, desire to apply for permanent residency. Issuance of PCC indicates absence of criminality or any criminal antecedent of an applicant.

5. In the current application for the issuance of PCC, it has been brought into the notice of this Office through Police Verification Report that the applicant is facing criminal proceedings that is also admitted by the petitioner himself.

6. It is pertinent to mention here that that exemption from the provision of Sec 6(2)(f) is applicable only on issuance of passport in terms of GSR 570(E) dated 25.08.1993. There is no provision under the Passports Act, 1967 and the Passport Rules 1980 for granting NOC to an applicant to obtain PCC in case there is pending criminal court case. According to Passport Manual also, PCC is a certificate indicating police clearance. It basically pertains to checking of criminal antecedents and confirmation from police that there is no criminal

7. However, if the state has no objection and submits 'Clear' Police Verification Report, a PCC can be issued to the petitioner as it is issued on behalf of State ensuring foreign country that petitioner has not involved in criminal proceedings. Issuance of PCC would help the concerned country for granting long term Visa."

ANALYSIS AND FINDINGS:

9. The Court has carefully considered the circumstances of this case. Issuance of a PCC is a miscellaneous service, as defined in Rule 2(d)(iv) of the Passport Rules, 1980, issued by the Passport authorities to confirm the



absence of criminal antecedents, primarily for the purpose of long-term visa and immigration requests. The requirement for such PCC stems from the Visa requirements of the country where the applicant intends to travel. Thus, even though the PCC is not strictly governed by the Passport Act, 1967, or the Passport Rules, 1980, it finds mention as a miscellaneous service to assist Indian nationals who are required to comply with specific requirements of the immigration authorities of foreign countries. The purpose of the PCC is that it indicates that the applicant does not have a criminal record, essentially serving as an assurance by the State to a foreign country that the applicant is not involved in any ongoing criminal proceedings. However, the Regional Passport Office can only issue a PCC if it receives a 'Clear' Police Verification Report from the relevant authorities.

10. In the present case the Petitioner has been granted anticipatory bail in connection with the FIRs filed against him in 2013. The condition for this bail is that the Petitioner must join the investigation whenever directed by the Investigating Officer. Notably, there is no restriction imposed by the Trial Court on the Petitioner's travel. It is also pertinent that, aside from these two FIRs, the Petitioner has no other criminal cases against him. Moreover, as per the quasi-judicial proceedings conducted by the RPFC, the Petitioner has fulfilled his liability by making the required provident fund deposits under the EPF Act.

11. Furthermore, the Petitioner holds a valid passport, renewed until 2029, which enables him to travel outside India. He also possesses a valid multiple-entry Visa for Canada, allowing him entry into that country. However, his present concern arises from the specific requirement under Canada's Start-up Visa Programme, which requires the submission of a PCC



from the applicant's country of residence.

12. In light of the facts disclosed by the Respondent, it is evident that the sole ground for denying the PCC is the existence of pending FIRs against the Petitioner as per the report of Respondent No. 2. However, it must be emphasized that mere pendency of a criminal case does not automatically disqualify an individual from exercising their right to seek long-term opportunities abroad. While Respondent No. 1 - the Ministry of External Affairs, is correct to point out their obligation to provide accurate information to the foreign authorities, this responsibility does not extend to unjustly curtailing the Petitioner's right to apply for a long-term Visa.

13. The legal framework demands that, in cases where criminal proceedings are pending, the individual must seek the necessary permission from the relevant court before traveling. In the instant case the Petitioner has a valid passport and no restrictions on his travel. His endeavour, however, goes beyond mere travel and concerns his right to seek a long-term Visa to establish a business in a foreign country. This relates to his fundamental right under Article 19(1)(g) to engage in an occupation or business. The Petitioner, like any other Indian citizen, holds the constitutional right to pursue any lawful business or trade both within and outside the country as permissible. The 'adverse' report given by the Respondent No. 2 objects to the issuance of a PCC on the ground that there are pending criminal cases against the Petitioner and there is no NOC. It must be noted that the Petitioner had approached the Trial Court for the purpose of issuance of an NOC, however as noted above, the request of the Petitioner was denied for lack of jurisdiction.

14. In light of the above, in the opinion of the Court, even though the



State has the authority to impose reasonable restrictions on the fundamental rights of a citizen under Article 19(6), in the instant case, denying the Petitioner a PCC due to the mere pendency of FIRs — without any conviction or finding of guilt — constitutes an unreasonable restriction. Therefore, it would be unjust to impose a blanket restriction on his efforts to secure a Visa solely based on the pendency of a case.

15. While it is acknowledged that adverse information exists against the Petitioner, it is equally relevant to note that his passport was renewed in 2019 for a decade. This renewal signifies that the Passport Authorities did not find any reason at that time to deny him travel privileges. It would be inconsistent for the same authorities to now refuse to issue a PCC solely on the basis of the pending FIRs. The issuance of the PCC will neither impact the ongoing criminal proceedings nor confer any undue advantage upon the Petitioner. The primary role of a PCC is to ensure transparency about an individual's background, not to impose blanket restrictions on the basis of pending cases. Moreover, the Petitioner's right to work and freedom of movement, must not be unjustly restricted solely on the existence of these FIRs.

16. In light of these considerations, the Court finds that the rights and interests of the Petitioner must be balanced with Respondents' obligation as a sovereign. The Respondents are thus directed to issue a PCC to the Petitioner explicitly mentioning the pending criminal case against him as well as the fact that the Petitioner has complied with the RPFC's order by making the required deposit. This would provide complete transparency to the Canadian authorities for their assessment of his Visa application. The prescribed PCC application as per the Passport Rules, 1980 be modified



accordingly. The PCC shall be issued in two weeks' time from today

17. With the above directions, the present writ petition is disposed of along with pending applications.

SANJEEV NARULA, J

OCTOBER 1, 2024
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