

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19773-2025 (O/M)

Date of decision : 18.07.2025

Shames Kaleem

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Ghulam Nabi Malik, Advocate
for the petitioner.

Mr. Arnav Kumar, Advocate
for respondents No. 1 and 2.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of mandamus for directing respondents No. 2 and 3 to take appropriate action as per Section 12 of the Passport Act, 1967 (in short 'the 1967 Act') against respondent No. 4-Aimen, on the basis of representation dated 20.09.2022 (Annexure P-4) and legal notice dated 30.05.2025 (Annexure P-6), submitted/served by the petitioner.

2. Briefly, petitioner-Shames Kaleem claims to be the husband of respondent No. 4-Aimen on the plea that their marriage was performed on 03.10.2013 as per Muslim Rites and Ceremonies. Petitioner claims that the aforesaid marriage is still subsisting as neither legal divorce has been effected between them nor there is any court decree in that regard.

2.1 Petitioner states that after the marriage, respondent No. 4-Aimen obtained a passport bearing No. Z2739513 from the Regional Passport Office, Chandigarh on 28.01.2014, wherein the name of petitioner is duly recorded as spouse of respondent No. 4.

2.2 Petitioner states that due to differences between petitioner and respondent No. 4, she (respondent No. 4) started residing with her parents. It is alleged that respondent No. 4 has fraudulently obtained a new passport bearing No. U5420818 (Annexure P-3) by falsely declaring herself as single and omitting the petitioner's name as her spouse, despite the marriage being subsisting. Petitioner claims that the aforesaid act of respondent No. 4 amounts to suppression of material facts and also that respondent No. 4 had prepared and submitted forged documents to procure the aforesaid passport by concealing her marital status.

2.3 The petitioner submitted a representation dated 20.09.2022 (Annexure P-4) before the Regional Passport Officer, Chandigarh (respondent No. 2), requesting therein to take legal action against respondent No. 4-Aimen; whereupon, a report was sought from the Senior Superintendent of Police, Malerkotla, vide letter dated 10.11.2022 (Annexure P-5).

2.4 It is stated that despite lapse of three years since the date when the petitioner submitted representation dated 20.09.2022 (Annexure P-4), no action has been taken, accordingly, petitioner served a legal notice dated 30.05.2025 (Annexure P-6) upon the Regional Passport Officer, Chandigarh, however, neither any action has been taken thereon nor any response has been received.

3. In the aforementioned circumstances, the petitioner has filed this civil writ petition before this Court, for seeking relief, as noticed hereinabove.

4. During the course of hearing of this petition, learned counsel for petitioner has produced a photocopy of plaint/suit filed by respondent No. 4-Aimen against the petitioner, in Court today itself and same is taken on record subject to all just exceptions. In the said suit, respondent No. 4 had sought declaration that she is a divorced wife of the petitioner (Shames Kaleem) and memorandum/writing dated 15.09.2019 regarding divorce has been executed at the office of Darul Kaja and Sariyat Panchayat Imarat, Sariyaye, Punjab, thereby dissolving marriage between petitioner and respondent No. 4 herein. The relevant extract of plaint/suit filed in Court today reads as under :-

“1. That the marriage of plaintiff with defendant was solemnized on 3.10.2013 in accordance with Muslim rites and ceremonies.

2. That out of wedlock of the parties no issue was born.

3. That after marriage there remained dispute between the parties even on petty matters. Due to temperamental differences between both the parties could not bring up their marital ties and both the parties started residing separately from each other.

4. That the relatives and respectables members of society tried their level best to reconcile the matter and tried their level best so that both the parties could remain unite in marriage, but all efforts were in vain.

5. That thereafter plaintiff on 8.4.2019 moved application before Darul Kaja and Sariyat Panchayat Imarat, Sariyaye, Punjab. The defendant was called on

14.4.2019 before Darul Kaja and Sariyat Panchayat Imarat, Sariyaye, Punjab. The defendant appeared on 25.8.2019 made statement in writing before Imarat Sariyaye, Punjab. There efforts were made to reconcile the matter between plaintiff and defendant, but both plaintiff and defendant refused to compromise the matter.

6. That thereafter also several attempts were made to reconcile the matter, but to no effect. At last Darul Kaja and Sariyat Panchayat Imarat, Sariyaye, Punjab dissolve the marriage between the parties with their consent and memorandum/writing dated 15.9.2019 was also reduced into writing. Copy of writing dated 15.9.2019 and its true translation are attached.

7. That after divorce between the parties the plaintiff also underwent Iddat period which as per memorandum/writing dated 15.9.2019 starts from 15.9.2019.

8. That defendant no concern with the plaintiff. The plaintiff is residing separately from defendant in her parental house at Mohalla Islam Ganj Chowk, Jamalpura, Malerkotla.

9. That now the defendant is resiling from the memorandum/writing dated 15.9.2019 and has once again started claiming himself to be husband of plaintiff. Infact the plaintiff has already been divorced by the defendant as detailed above.

10. That the defendant has also started interfering in the peaceful life of the plaintiff and further the defendant is threatening the plaintiff with dire consequences.”

4.1 Learned counsel for petitioner contends that the aforesaid suit preferred by respondent No. 4-Aimen was dismissed in default on 25.02.2025.

5. Heard.

6. Apparently, there is a memorandum/writing dated 15.09.2019 dissolving the marriage between the petitioner and respondent No.4. Learned counsel for the petitioner has not disputed the existence of said memorandum/writing dated 15.09.2019. In case, the petitioner had any objection as regards the said memorandum/writing dated 15.09.2019 then he would have availed his legal remedies for seeking setting aside of the same; however, no such course appears to have been taken by the petitioner. Further, it is not denied by learned counsel for the petitioner that respondent No.4 is residing separately from the petitioner since the year 2019.

6.1 Be that as it may, the genuineness or validity of the said memorandum/writing dated 15.09.2019 is not in question before this Court.

7. In the present case, the petitioner is seeking action against respondent No.4 under Section 12 of the 1967 Act, on the plea that she has obtained a new passport No. U5420818 (Annexure P-3) by concealing her marital status.

8. The question before this Court is whether mentioning of marital status by respondent No.4 as “single” in the passport application, amounts to suppression of material information or giving wrong information so as to attract Section 10 (3) (b) of the 1967 Act and/or Section 12 (1) (b) of the 1967 Act?

9. Here, it would be apposite to refer to Section 10 (3) (b), Section 10 (5) and Section 12 (1) (b) of the 1967 Act which read as under:

“10. Variation, impounding and revocation of passports and travel documents

(1) xxx xxx xxx

(2) xxx xxx xxx

(3) *The passport authority may impound or cause to be impounded or revoke a passport or travel document, -*

(a) xxx xxx xxx

(b) *if the passport or travel document was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the passport or travel document or any other person on his behalf;*

[Provided that if the holder of such passport obtains another passport the passport authority shall also impound or cause to be impounded or revoke such other passport]

xxx xxx xxx

(5) *Where the passport authority makes an order varying or cancelling the endorsements on, or varying the conditions of, a passport or travel document under sub-section (1) or an order impounding or revoking a passport or travel document under sub-section (3), it shall record in writing a brief statement of the reasons for making such order and furnish to the holder of the passport or travel document 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 a copy.*

12. Offences and penalties

(1) *Whoever-*

(a) xxx xxx xxx

(b) *knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority*

alters or attempts to alter or causes to alter the entries made in a passport or travel document; or

(c) to (e)

shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both”

9.1 A perusal of Section 10 (3) (b) of 1967 Act would show that the power vested in the passport authority to impound or revoke a passport or a travel document, is discretionary in nature as the term employed therein is “may”. Further, while exercising the said power, the passport authority is obligated to record a brief statement of reasons for making such order, as envisaged under Section 10 (5) of the 1967 Act.

9.2 Still further, a bare reading of Section 10 (3) (b) and Section 12 (1) (b) of the 1967 Act reflects that the suppression of material information or giving wrong/false information has to be '*with a view to obtain the passport*'.

10. In my considered view, the information which is suppressed or which is wrongly/falsely given; must be such that had that information been correctly disclosed, in that eventuality the passport authority would have refused the issuance of passport to such applicant in terms of Section 5 (2) (c) of the 1967 Act, which reads as under:

“5. Applications for passports, travel documents, etc., and orders thereon

(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, -

(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.”

11. Now, the passport/travel document, etc. can be refused by the passport authority in terms of Section 6 of the 1967 Act, which reads as under:

“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 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.

(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;*
- (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.”*

11.1 A perusal of Section 6 (2) would show that the passport authority may refuse to issue passport to an applicant on any one or more of the grounds mentioned in sub-section (2) of section 6 of 1967 Act and on no other ground. Evidently, in sub-section (2) of section 6 of 1967 Act, there is no mention as regards suppression or wrong information as regards 'marital status of an applicant'.

12. After examining the above referred provisions and upon considering the case in hand, I am of the considered view that the applicant for passport or anyone on his/her behalf is required to give/disclose correct information, as is sought in the passport application. However, in the peculiar facts and circumstances of this case, if respondent No.4 while applying for a new passport has stated herself to be “single”, on the basis of the memorandum/writing dated 15.09.2019 claimed to be executed by respondent No.4 between her and the petitioner for dissolving their marriage and the petitioner herein not disputing the existence of memorandum/writing dated 15.09.2019, coupled with the fact that there is no denial on the part of the petitioner that respondent No.4 is residing separately from petitioner since the year 2019; the same would not fall within the mischief of Section 10 (3) (b) or Section 12 (1) (b) of the 1967 Act; so as to call for any impounding/revocation of passport under Section 10 (3) (b) or any penalty under Section 12 (1) (b) of the 1967 Act.

13. Here, it would also be apposite to refer to the case of **“Dr. Madas Venkat Goud vs. State of Andhra Pradesh, 2011 (6) RCR (Criminal) 2711”**, wherein the following observation was made:

“12. The words used in the said provision of law clearly indicate about false information or suppression of any information with a view to obtain a passport. Here is a case where it can definitely be said that the accused had furnished false information, since as on the date when he submitted an application for passport, he was married and completed his medicine and was prosecuting further studies in post graduation. In the application he furnished his educational

qualification as "S.S.C. and Intermediate". In my considered view, the said false information or suppression of material information is not with a view to obtaining passport. Whether the educational qualification of the accused is intermediate or whether he is married or not, makes no difference for the passport authorities to issue passport."

14. In view of the above discussion, I find no merit in the instant writ petition and the same is accordingly dismissed.

15. All pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

18.07.2025
sjks/Himani

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