

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18822 of 2025

Mayank Mohan Son of Madhav Sharan Tiwari, Resident of Madhukunj, Baswaria, Bettiah, P.S.- Bettiah, District- West Champaran- 845438 also resident at R-185, 3rd Floor, R-Block, Greater Kailash, P.O.- Greater Kailash, District- South Delhi- Delhi-110048.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, the Ministry of External Affairs, Government of India at New Delhi.
2. The Office of the Chief Passport Officer (CPO), Passport Seva Programme (PSP) Division, Ministry of External Affairs, Room No.- 21, Patiala House, Tilak Marg, New Delhi-110001.
3. The Regional Passport Officer, Patna having office at 2nd and 3rd Floor, D-Block, Maurya Lok Complex, Patna, Bihar- 800001.
4. The Public Grievances Officer, PSP Division, Ministry of External Affairs, Room No.- 24, Patiala House, Tilak Marg, New-Delhi-110001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanchay Srivastava Mr. Aalekh Anand Mr. Sushant Srivastava Mrs. Sonali Priya Mr. Ashish Kumar Palit
For the Respondent/s	:	Mr. Ram Tujabh Singh-CGC Mr. Radhika Raman

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 08-01-2026

1. Heard learned counsel for the parties concerned.

2. The marriage of the petitioner was celebrated in South Korea on 13.12.2013 with Seunga Yang. The marriage was registered in South Korea, and the petitioner, being Indian also got it registered in India. The petitioner and his first wife filed a petition for divorce before the Family Court in South



Korea on the ground of mutual consent and the decree of divorce was passed after mediation, etc., on 11.11.2024 on the ground of mutual consent, as per the South Korean law. Subsequently, the petitioner solemnized his marriage with another Korean girl, namely, Daun Jung, on 13.02.2025 in Incheon, South Korea. This marriage was also registered in both countries i.e. South Korea as well as in India.

3. The petitioner filed an application for change of name of his spouse as per the relevant rules (Passport Rules, 1980) on 07.08.2025. However, the respondents-passport authorities, did not allow the operation of the passport by changing the name of the present spouse of the petitioner on the ground that, as per Clause 3.3.2 of the Compendium of Instructions, an application must be submitted by the parties at the competent Indian civil court and a declaratory order authenticating and confirming that the foreign divorce decree is in accordance with Indian law must be obtained by the concerned parties, before the mutual/contested foreign divorce is accepted by the Passport Issuing Authorities for grant of passport service.

4. Being aggrieved by the aforesaid, the petitioner has filed the present writ application for quashing and setting



aside the letter, having Letter reference No. SCN/1051024237/25, dated 30.10.2025, issued by the Regional Passport Office, Patna, whereby the petitioner has been directed to furnish a declaratory order by Indian Courts authenticating the Degree/Order of Divorce passed in favour of the petitioner on mutual consent by the competent court in South Korea.

5. The petitioner has further prayed for mandamus directing the authorities to allow the updation of the passport by changing the name of his present wife in the passport, without demanding any declaratory order by the Indian civil courts, and to forthwith issue an updated passport to the petitioner.

6. Mr. Sanchay Srivastava, learned counsel appearing for the petitioner, submits that the petitioner is an Indian citizen, having Passport No. Z4068695 and is working in South Korea (Officially Republic of Korea) since 2008.

7. The petitioner is an employee of Samsung Electronics, having its headquarters at South Korea, and at present he is Senior Director in Indian Subsidiary of Samsung Electronics on deputation of three years in India for a term which is ending in June, 2026.

8. During his stay at South Korea, the petitioner solemnized marriage with Seunga Yang in the year 2013 in



South Korea itself under the South Korean law and the marriage was registered both in South Korea and in India as well.

9. Subsequently, both the petitioner and Ms. Seunga Yang, mutually decided to dissolve the marriage and filed a divorce suit before the competent Family Court at Suwon Family Court in South Korea on the ground of mutual consent. The Family Court at South Korea, after hearing both the parties and after following the due process of law, including the mediation, passed a decree of divorce on mutual consent on 11.11.2024. The order of decree of divorce passed by the Family Court has been annexed at Annexure P-2 to the application.

10. Learned counsel next submits that a divorce on mutual consent is available in both the jurisdictions, in South Korea as well as in India, but since the marriage was solemnized in South Korea and the petitioner as well as his divorced wife were living together in South Korea, it was mutually decided by them to approach the South Korea court of competent jurisdiction for dissolution of their marriage by mutual consent.

11. Ms. Seunga Yang is a South Korean national and the petitioner is a permanent resident of South Korea.

12. After the decree of dissolution of marriage with Ms. Seunga Yang, the petitioner married another girl, who



is also a South Korean national, namely, Daun Jung, on 13.02.2025 in Incheon, South Korea. This marriage was also solemnized in South Korea and later on registered in India as well.

13. The petitioner is having a touring job and keeps on moving from South Korea to India and vice versa due to professional engagements. The passport of the petitioner, issued in India, is valid till 16.11.2026, and it was supposed to be renewed thereafter. Since the petitioner was working on deputation in India, the petitioner thought it wise to submit his passport for updation of name of his present wife before the Regional Passport Office at Patna, so that he may not face any last-minute difficulty in future.

14 Accordingly, the petitioner submitted an application on 08.08.2025 for renewal of passport and for change of his spouse name. The petitioner made a request for change of his ex-wife name, namely, Seunga Yang to his present wife name, namely, Daun Jung.

15. The Embassy to the Republic of Korea (South Korea) vide its letter, having Letter Ref. No. CON-25-57, dated 22.10.2025, has clarified that there is no objection regarding the second marriage of the petitioner and nobody in the Republic of



Korea (South Korea) has made any objection in this regard.

16. Due to his official position, the petitioner is required to visit Samsung Headquarters in South Korea at least twice a year for business performance review and once in a year for medical check-up (as mandatory policy in South Korea in large company). The petitioner's medical check-up for the year 2025 and 2nd business performance review in South Korea are due and he may face adverse impact on his career and even the company, wherein he is currently employed may face penalty for violating the mandatory policy for large companies. Even the employer company has issued a letter/certificate, dated 10.11.2025 in this regard. The petitioner is, therefore, required to visit South Korea before the end of the year 2025.

17. It has further been argued that the Central Government, in exercise of power conferred under Section 24 of the Passport Act, 1967, amended the Passport Rules, 1980, by the Passport (Amendment) Rules, 2016, which came into force on the date of its publication in the Official Gazette vide Gazette Notification, dated 23.12.2016, having Notification No. G.S.R.1171 (E).

18. From perusal of the said amendment, it is clear that except the details provided by the applicant of the



passport in the application form, no proof of marriage/dissolution of marriage (court's order for judicial separation/decreed of divorce) etc. is required.

19. Accordingly, the submission is that insistence of respondent-authorities in demanding a declaratory order from the Indian civil courts, authenticating and confirming the decree of divorce obtained by the petitioner on the ground of mutual consent from the competent court in South Korea, is contrary to the Passport Rules, 1980, inasmuch as the notification, dated 23.12.2016, explicitly dispenses with the requirement of any additional proof or court order for change of name of spouse in the passport following marriage, re-marriage or divorce. The action of the respondent-authorities in insisting for declaratory order from Indian Civil Court is arbitrary, unreasonable and violative of Articles 14, 19 and 21 of the Constitution of India.

20. Learned counsel relied upon the judgment of Supreme Court in case of **Jaiveer Singh and Ors. v. State of Uttarakhand and Ors.** (Civil Appeals No. 7871-72 of 2023 with No. 7873 of 2023), **reported in (2024) 15 SCC 227**, on the proposition that the Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point, it can fill up the gaps and



supplement the rules and issue instructions not inconsistent with the rules already framed. The authority cannot issue order/public memorandum/executive instructions in contravention of the statutory rules.

21. The Rules specifically provides that in the application form for change of name of spouse, no proof of marriage, dissolution of marriage, etc. is required. Therefore, insistence of the respondents-authorities in demanding a declaratory order from the Indian civil courts, authenticating and confirming the decree of divorce, obtained by the petitioner on the ground of mutual consent from the South Korean court on the basis of compendium, which is in the nature of guideline, is bad in view of the specific provisions for change of name of spouse in the passport as provided in the relevant rules.

22. Learned counsel, thereafter, referred to Section 13 of the Code of Civil Procedure dealing with the foreign judgments and submits that as per the Section 13 of the Code of Civil Procedure, the foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or parties under whom they or any of them claim litigating under the same title except:-

(a) where it has not been pronounced by a Court of



competent jurisdiction;

(b) where it has not been given on the merits of the case;

(c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of India in cases in which such law is applicable;

(d) where the proceedings in which the judgment was obtained are opposed to natural justice;

(e) where it has been obtained by fraud;

(f) where it sustains a claim founded on a breach of any law in force in India.

23. The judgment passed by the competent court at South Korea is not falling under the exceptions as given in Section 13 of the Code of Civil Procedure and it is not the case of the passport authority that the decree of divorce granted by the competent court of South Korea is contrary to the Indian laws and is against the public policy. He has also pointed out that Section 14 of the Code of Civil Procedure, for the purpose, that there is presumption of correctness of foreign judgment unless the contrary appears on record.

24. He next relied upon the judgment of Kerala High Court on the similar issue and submitted that the Hon'ble Kerala High Court in the case of **Nibu Mathew Titus v. The**



Union of India and Ors., passed in **(WP (C). No. 34864 of 2019(G))**, taking into note of judgment of the Hon'ble Supreme Court passed in **(1991) 3 SCC 451**, in the case of **Y. Narasimha Rao and Ors. v. Y. Venkata Lakshmi and Ors.**, as referred in the Clause 3.3.1 of the Compendium of Instructions/Guidelines Relating to issue of Passports in India/Abroad, has held that Compendium of Instructions cannot be construed to be a law and part-take the character applicability of Rules which have force of law and directed the respondent-passport authorities to take into consideration the application strictly as per the Passport Rules, 1980, without delving into the Compendium of Instructions.

25. Learned counsel also relied upon the judgment of Telangana High Court on similar point, by which, the Hon'ble Telangana High Court, in the case of **Smt. Hima Bindu Maguluri v. Union of India**, passed in **Writ Petition No. 13669 of 2025**, has held that respondents' insistence upon a declaratory order is unjustified when the foreign court had jurisdiction and both the parties had voluntarily participated in the proceedings leading to dissolution of marriage.

26. On the other hand, learned counsel for the respondents-passport authorities argued that as per Clause 3.3.2



of the Compendium of Instructions, in case of mutually agreed or mutual properly contested divorce cases also, an application must be submitted by the parties at the competent Indian civil court and a declaratory order authenticating and confirming that the foreign divorce decree is in accordance with Indian law must be obtained by the concerned parties, before the mutual/contested foreign divorce is accepted by the Passport Issuing Authorities for grant of any passport service.

27. I have heard learned counsel for the parties and have gone through the materials available on record, including the relevant rules and judgments relied upon by the petitioner.

28. The facts are not disputed that the petitioner celebrated his first marriage with Ms. Seunga Yang in South Korea while he was permanently residing and working in South Korea. The decree of divorce has been obtained from the Family Court of South Korea on 11.11.2024, for which Notarial Certification has been issued by the South Korea, along with translated copies.

29. Subsequently, the petitioner solemnized marriage with another South Korea girl, namely, Daun Jung, on 13.02.2025, as per the South Korean law and the marriage was



registered in South Korea as well as in India.

30. Since the passport of the petitioner, which is valid till 16.11.2026, was holding the name of his ex-wife, namely, Seunga Yang, and the petitioner is in India in relation to his professional work/engagement, he thought it appropriate to get the passport updated by changing the name of his ex-wife with his present wife, namely, Daun Jung.

31. Accordingly, the petitioner applied as per the relevant rules, which is the Passport Rules, 1980, and its amendment held in the year 2016, for change of name of his ex-wife, namely, Seunga Yang, and updation of his passport by adding the name of his present wife, namely, Daun Jung, in the column of spouse as well as for renewal of the passport, which is expiring on 16.11.2026.

32. The relevant rules, which has been brought on record and has not been denied by the respondents, is the Passport Rules, 1980, and in exercise of the power conferred in Section 24 of the Passport Rules, 1967, the Central Government amended the Rules and a notification in this regard was issued in Official Gazette on 23.12.2016 vide Gazette No. G.S.R. 1171 (E).

33. Clause 2 (B) of the Passport (Amendment)



Rules, 2016, deals with the change of name/addition of spouse's name in passport on reissue basis and says that re-married applicant applying for change of name of spouse in the passport is not required to provide any other proof/dissolution of marriage, except the details provided by the applicant in the application form.

34. The foreign judgment of divorce on the ground of mutual consent is not contrary to the Indian laws and also not contrary to the public policy of India.

35. It is not the case of the respondents that the decree of divorce on mutual consent passed by the foreign court is falling under the exception as provided under Section 13 of the Code of Civil Procedure. There is presumption of correctness of foreign judgments if the judgment was pronounced by a competent court of jurisdiction, unless the contrary appears on record.

36. The respondents have failed to produce any material to show that the decree of divorce passed by the Family Court at South Korea was not a competent court of jurisdiction.

37. The law is settled that any executive /administrative instructions cannot supersede or over-ride statutory rules. The statutory rules in the present case, which is



the Passport Rules, 1980, does not have any provision requiring the citizen seeking updation of the passport or passport on the basis of foreign decree to submit a declaratory order passed by Indian Civil Court.

38. On the contrary, the rules says that no proof of dissolution of marriage is required to be submitted for change of name or addition of spouse name in the passport.

39. Considering the aforesaid discussion and the fact that the petitioner has duly applied for change of name of spouse on the basis of decree of divorce passed by the competent court at South Korea and no doubt upon the said judgment in respect of his lack of jurisdiction has been expressed by the respondent-authorities and the decree of divorce passed by the foreign court is not inconsistent with the Indian law and/or public policy, the insistence of the respondent-passport authorities in demanding a declaratory order from Indian civil courts is contrary to the Passport Rules, 1980, amended as on 26.12.2016.

40. Accordingly, the respondents, particularly, the Passport Authority at Patna are directed to take appropriate decision on the application of the petitioner for renewal and change of name of spouse as per the Passport Rules, 1980,



within a period of 15 days without insisting upon the requirement of declaratory order authenticating and confirming the foreign divorce decree as per Clause 3.3.2 of Compendium of Instruction/Guidelines.

- 41. In the result, this writ application is allowed.
- 42. There shall be no order as to costs.

(Anil Kumar Sinha, J)

ashwani/-

U			
---	--	--	--

