CHANDRAKANT DEWANGAN

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5550 of 2026

1 - Sanvi Anand (Minor) D/o Shri Varun Anand Through Mother And Natural Guardian, Smt. Akansha Anand (Dua), Aged About 40 Years R/o House No. 6, Near Gurudwara, Ward No. 37, Adarsh Colony, Bilaspur, (C.G.)

... Petitioner(s)

versus

1 - Union Of India Through - Secretary, Ministry Of External Affairs, New Delhi.
2 - Regional Passport Office, Raipur 1st Floor, Commercial Complex, Sector-4, Pt. Deendayal Upadhyay Nagar, Raipur (C.G.)
3 - Shri Varun Anand S/o Shri Ashok Anand Aged About 42 Years R/o House No. 26, Chamber Of Commerce, Lalitpur Colony, Near Dr. Laha Clinic, P.S. Indraganj, Tah. And Distt.- Gwalior (M.P.)

... Respondents

(Cause-title taken from the Case Information System)

For Petitioner	:	Mr. Prafull N. Bharat, learned Senior Advocate appears along with Mr. Akash Pandey, Advocate
For Respondents No.1 and 2:		Mr. Abhishek Banjare, CGS
For Respondent No.3	:	None

SB- Hon'ble Shri Justice Amitendra Kishore Prasad
Order On Board

04.11.2026

1. As the issue involved in this petition has already been decided by this Court in Writ Petition (C) No.2186 of 2024 decided on 29.04.2026 in the matter of **Smt. Anshula Chaturvedi Versus. Union of India and Another**, as such, issuance of notice to respondent No.3 is not required. Accordingly, after hearing

learned counsel for the concerned parties, i.e. Union of India, this Court deems it proper to pass a final order.

2. The present writ petition under Article 226 and 227 of the Constitution of India has been filed by the petitioner challenging the order dated 18.09.2026, whereby the application filed by the minor petitioner for grant of passport has been rejected on the ground that her father had not issued no objection for the said purpose. The petitioner has further sought a direction to the respondents to issue passport/visa in her faour without insisting upon such consent.

3. The case of the petitioner in brief is that the parents of the petitioner, namely, Smt. Akansha Dua and Shri Varun Anand got married on 20.06.2014 and out of the said wedlock, the petitioner-Sanvi Anand was born on 27.10.2020. It is submitted that the marriage between the parents of the petitioner has been dissolved by a decree of divorce dated 09.05.2025. Mother of the petitioner, namely, Akansha Anand is holding a passport. The petitioner, on 13.12.2025 submitted an application for grant of passport before respondent No.2 and oп 18.09.2026, respondent No.2 passed an order and communicated the petitioner that in view of non-submission of no objection by her father regarding giving consent for issuance of passport, the application of the petitioner has been rejected.

4. Following reliefs have been prayed by way of this petition:-

“10.1. To call for the records of the case for the kind perusal of this Hon'ble Court.

10.2 To issue an appropriate writ or order and declare that the order dated 18.09.26 (Annexure P-1) is illegal and bad in law and also in contravention of the Passport Act, 1967 and the Passport Act, 1967 and the Passport Rules, 1980.

10.3 To issue an appropriate writ or order and quash that the order dated 18.09.26 (Annexure P-1) is illegal and bad in law and also in contravention of the Passport Act, 1967 and the Passport Rules, 1980.

10.4 To issue an appropriate writ or order and direct res.no.1 & 2 to issue the passport of petitioner on the strength of Annexure C without requiring the consent or appearance of the father.

10.5 Any other relief deemed fit in the facts and circumstances of the case may also be granted. ”

5. Learned counsel for the petitioner submits that the action of the respondent authorities in refusing to issue passport in the name of the petitioner (minor) solely on the ground of not giving consent by her father is illegal, arbitrary, and unsustainable in law, being violative of Articles 14 and 21 of the Constitution of India. It is contended that the insistence on such consent, despite the peculiar facts of the case, is mechanical and without application of mind. It is further submitted that the marriage between the parents of the petitioner already stands dissolved by a judgment and decree dated 09.05.2025 passed under Section 13-B of the Hindu

Marriage Act, 1955, and the petitioner (minor child) is residing with her mother. As per the said decree, the custody of the minor child has been granted to the petitioner's mother and it has been recorded that the father has no objection to the custody of the minor child remaining with her mother, therefore, insistence on obtaining consent of the father is wholly unjustified. It is also submitted that there is no dispute regarding custody of the minor child, and the petitioner (minor) residing with her mother, is competent to apply for issuance of passport/visa. The petitioner's mother is not aware of the present whereabouts of her former husband, making compliance of such requirement impossible and unreasonable.

6. Learned counsel further submits that the petitioner, who is a minor, on 13.12.2025 submitted an application for grant of passport before respondent No.2 and on 18.09.2026, respondent No.2 passed the order and communicated the petitioner that in view of non-submission of no objection by her father regarding giving consent for issuance of passport, the application of the petitioner has been rejected. The petitioner was compelled to seek closure only due to the persistent and unjustified insistence of the Passport Authority on furnishing the father's consent, despite subsistence of a valid decree of divorce and undisputed custody. Such closure cannot be treated as voluntary abandonment, but was merely a procedural compulsion. It is also submitted that the action of the respondents is contrary to the

provisions of the Passport Act, 1967, particularly Section 6, which exhaustively enumerates the grounds for refusal of passport, and the insistence on obtaining consent of the father, does not fall within any of the statutory grounds prescribed therein.

7. Learned counsel further submits that the minor petitioner had applied for grant of passport in terms of Annexure ‘C’ of the Passport Manual, which specifically governs case, where one parent is unable to obtain consent of the other parent. A plain reading of Annexure ‘C’ makes it clear that it is intended to relax the requirement of consent of both parents in genuine cases. The rigid insistence by the respondent authority defeats the very object and purpose of the said provision. It is also argued that as per the Passport Rules, 1980 and the Passport Manual, 2020, in cases involving divorced parents, applications for issuance of passport to minor children are required to be processed with care and sensitivity, and the child’s right to travel abroad cannot be defeated merely due to absence of consent of the other parent, particularly when custody is undisputed. Reliance is placed on the judgment of the Hon’ble Supreme Court in ***Maneka Gandhi vs. Union of India (1978) 1 SCC 248*** to contend that the right to travel abroad is an integral part of personal liberty under Article 21 of the Constitution of India, and therefore, denial of passport to the minor child on such technical grounds is unconstitutional. Reliance has also been placed upon the various judgments passed in the matter of ***Yushika Vevek Gedam vs. Union of***

India and Ors. 2025 SCC OnLine Bombay 46, Chaitanya S. Nair (Minor) vs. Union of India in the High Court of Kerala in WPC No.22555/2021, ***Poem Jaiswar vs. Union of India and Another*** in the High Court of Judicature at Allahabad in WPC No. 9771/2025 as also in ***Juvairiya vs. Regional Passport Officer*** in the High Court of Kerala in WPC No. 1870/2014. It is thus submitted that the petitioner has fulfilled all necessary formalities, and the rejection of the application solely on the ground of non-production of father's consent is arbitrary, illegal, and liable to be set aside.

8. Per contra, learned counsel appearing for the respondents submits that the requirement of consent of both parents is in accordance with the applicable rules/guidelines governing issuance of passport to a minor. It is contended that such requirement is to safeguard the interest of the minor child and to avoid any dispute relating to custody or parental rights. It is further submitted that unless the requisite documents or exemptions as per rules are furnished, the respondents cannot process the application.

9. Having heard learned counsel for the parties at length and upon perusal of the material available on record, this Court proceeds to examine the controversy in its proper legal and factual perspective. At the outset, certain foundational facts are not in dispute: (i) the petitioner (minor) is living with her biological

mother; (ii) the marriage between the parents of the petitioner stands dissolved by a decree of divorce dated 09.05.2025 passed under Section 13-B of the Hindu Marriage Act, 1955; and (iii) the custody of the minor child has been unequivocally granted to the petitioner's mother, with the father retaining only limited visitation rights. The decree further records that the father has no objection to the child residing with her mother. Thus, the petitioner's mother status as the custodial parent is not only factual, but also legally crystallized. The core issue that arises for consideration is whether, in the facts of the present case, the respondent authorities were justified in insisting upon the consent of the father for issuance of passport to the minor child.

10. Upon a careful reading of the statutory scheme governing the field, particularly the Passports Act, 1967 and the Passport Rules, 1980, it is evident that the law does not mandate an inflexible or absolute requirement of consent of both parents in every case. Section 5 of the Act permits an application for a passport to be made by a parent or guardian in respect of a minor. Further, the administrative framework, including the Passport Manual and prescribed forms, specifically contemplates situations where one parent may not be available or where consent cannot be obtained. Annexure 'C', which has been placed on record, is a clear reflection of such legislative and administrative intent, providing a mechanism for declaration by a single parent in appropriate cases.

11. In the present case, the petitioner has invoked the said mechanism by furnishing the requisite declaration and has also explained that she is not aware of the present whereabouts of her former husband. This assertion has not been controverted by the respondents through any cogent material. In addition, the divorce decree itself records the mutual understanding between the parties regarding custody, thereby eliminating any apprehension of inter se dispute concerning the minor child.

12. In this context, reference may also be made to the decision rendered by the High Court of Gujarat in ***Minor Khrisha Suresh Hemnani & Ors. vs. Regional Passport Office Ahmedabad & Anr. in R/Special Civil Applicaiton No. 14738 of 2025***, wherein the Court observed that procedural requirements relating to consent of parents cannot be enforced in a rigid manner so as to defeat the welfare and legitimate rights of a minor child, particularly when one parent has lawful custody and there exists no subsisting dispute regarding guardianship. The said decision reiterates that the Passport Authorities are required to adopt a pragmatic and purposive approach while dealing with applications concerning minors and cannot insist upon compliance with conditions that are either impracticable or unnecessary in the facts of a given case. The principle laid down therein fully supports the case of the present petitioner. Relevant paras of the said order are quoted hereinbelow:-

“5. As per Section Section 4(3) of the Schedule-II of the Passport Rules, 1980 provides that a single parent who is separated, but not formally divorced, is also eligible to endorse consent to prefer an application and get a passport and it apparently by way of abundant caution that the authority has indicated that the passport could not be granted unless there is consent of any of the parent or if there was a Court order.

6. So far as the present case on hand is concerned, it is not in dispute that decree of divorce has already been obtained by the present petitioner no.3 and respondent no.2 - husband and subsequently, they got divorce and as per the Memorandum of Understanding executed between them, the custody of the minor daughter and son is to be kept with the mother i.e. the petitioner no.3 and considering the same, the petitioner no.3 has applied for renewal of the passport and the same was rejected by the respondent no.1 on the ground that the father's consent or No Objection for minors' passports has not been produced along with the application form.

7. Considering the above, this Court is inclined to allow the present petition and the same is hereby allowed. The respondent no.1 authority is directed to consider the application dated 11.07.2025 preferred by the petitioner no.3 as a single parent and renew the passports of both the minor petitioner nos.1 and 2 i.e.

Khrisha Suresh Hemnani and Kiaan Suresh Hemnani as expeditiously as possible preferably within a period of 1 week from the date of passing of this order."

13. Similarly, the High Court of Judicature at Bombay in the matter of ***Miss Yushika (Supra)*** has held as under:-

"21……...In these circumstances, in our opinion, considering the well-settled position in law, it cannot be that the petitioner's right to travel abroad by issuance of a passport can in any manner be scuttled and/or taken away by denying her a passport to be issued/re-issued merely for the reason that the father for the only reason that he has disputes with the mother, is not supporting the petitioner's application by consenting to it. Also the petitioner's mother has submitted a declaration in Annexure-C, which is now required to be considered and processed by respondent no. 2.

22. It is well-settled that the expression "person liberty" which occurs in Article 21 of the Constitution includes right to travel abroad and no person can be deprived of that right except according to the procedure established in law. It is held that the procedure prescribed by law has to be fair, just and reasonable, not fanciful, oppressive or arbitrary. The right to travel abroad is a facet of fundamental right guaranteed under Article 21 of the Constitution of India (See. Maneka Gandhi vs. Union of India (1978 1 SCC 248)). The petitioner iscertainly entitled to such constitutional right guaranteed under Article 21.

25. We may also observe that in the contemporary times traveling abroad cannot be considered to be a fanciful affair but has became an essential requirement of modern life. Such need to travel which may be the requirement of a child, a student or an employee, professional or a person from any other strata of the society, has undergone a monumental change. Thus, the right to travel is required to be not only recognized but made more meaningful. This can be achieved and supported by the authoritics implementing the provisions of the Passport Act by effectively recognizing such contemporary needs in dealing with passport applications. The present case is an example of a student being given an opportunity to undertake a study tour by visiting a foreign country. Any action of the Passport Authority in denying the passport would have severe consequence not only adversely affecting the applicant in a given situation, but it may cause irreparable harm to the prospects of the applicant, for any venture she or he intended to undertake. Thus, a mechanical approach in this regard by the Passport Authority cannot be countenanced.

24.We thus find that such valuable constitutional right of the petitioner cannot be prejudiced much less be taken away, and merely on the ground as contained in the impugned communication dated 18 November, 2024 issued by respondent no. 2. Further Section 6 of the Passport Act, 1967 provides for Refusal of passports, travel documents etc. The ground on which the application of the petitioner is not being processed

is in no manner whatsoever recognized Section 6 of the Passport Act. In the aforesaid circumstances, we find that there is no warrant in law for respondent no. 2 to deny the re-issuance of passport to the petitioner when the declaration in Annexure-C was submitted by the petitioner's mother."

14. The High Court of Kerala in the matter of ***Chaitanya (Supra)*** has held as under:-

"12……..., the passport issuing authority cannot insist on consent from both parents for issuing a passport to a minor child. Though in earlier times, there was ambiguity and confusion regarding the procedure to be adopted when consent of both parents could not be obtained while issuing a passport to a minor, by virtue of several precedents, which were subsequently incorporated as guidelines in the Passport Manual, it has been provided that, if an affidavit is filed in the form of Annexure-C (earlier Annexure-G) of Schedule III of the Passport Rules, 1980, the passport issuing authority can issue a passport to a mino child, without insisting upon the consent of both parents. Therefore, even if one of the parents of a minor child refused to give consent, the passport issuing authority is entitled to issue a passport to a minor, provided Annexure-C is submitted. Juvairiya v. Regional Passport Officer, Malappuram (2014 (2) KHC 53) is an authority for the above proposition."

15. Also, the High Court of Judicature at Allahabad in the matter of ***Poem Jaiswar (Supra)*** has held as under:-

> *"22. On the issue of passport issuance to the minor where parents had dispute, Bombay High Court observed that a minor's right to travel abroad cannot be prejudiced merely because the father, involved in ongoing matrimonial proceedings, refuses to give his consent or no objection certificate. The absence of consent from one parent in such circumstances cannot nullify the constitutional rights of a minor, and a mechanical refusal to process the application cannot be countenanced."*
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> *25. It appears that the Passport Rules, 1980, have specifically foreseen the situation where the consent of one parent of a minor may not be obtainable due to unavoidable circumstances. In such cases, the Rule provide a complete procedural mechanism to ensure that the minor's right to a passport is not defeated. The prescribed Annexure C is required to be submitted along with the passport application by the applying parent. This annexure is a recognized declaration that takes care of necessary procedural requirements, enabling the passport authorities to process and issue the passport, even in the absence of consent from one parent……..."*

16. Similarly, the High Court of Kerala in the matter of ***Juvairiya (Supra)*** has held as under:-

“7. It is evident from the guidelines quoted above, that in the normal course, the signature/consent of both parents is required for issuance of a passport to a minor. It is however stipulated that if in case the applicant parent is not in a position to get the consent of the other parent "for whatever reason" the parent applying for a passport for the minor child may sign the form and submit a sworn affidavit as per Annexure "G" stating the facts and circumstances of the case along with the application. It is also stipulated that the affidavit should also state that in the event of a court case, he/she would be responsible and not the Passport Officer. The guidelines also stipulate that in such cases where only one parent is applying, physical appearance of the minor child may be requested to ensure the applicant parent has actual custody of the minor child.

11…….. As stated in section III of schedule III, if the applicant parent is not in a position to get the consent of the other parent whatever be the reason for such inability, all that is required to be produced along with the application, apart from other documents, is an affidavit in Annexure "G". It is not necessary for such an applicant to produce the consent of the other parent or an order by the court granting custody of the child to him/her.”

17. In such a scenario, the insistence on production of consent of the father appears to be not only misplaced but also contrary to

the very object of the relaxation provided under the rules. The authorities have failed to appreciate that the requirement of consent is not an end in itself, but a safeguard intended to protect the interests of the minor and to avoid disputes relating to custody or unauthorized removal of the child. Where such concerns are demonstrably absent, as in the present case, the mechanical enforcement of the requirement defeats the purpose of the law.

18. This Court is also of the considered view that the approach adopted by the respondent authorities suffers from non-application of mind. The rejection of the petitioner's application appears to be based on a rigid and formulaic interpretation of procedural requirements, without due regard to the peculiar facts and the legal position governing the case. Administrative discretion, particularly in matters affecting fundamental rights, must be exercised in a fair, reasonable and context-sensitive manner. The failure to do so renders the action vulnerable to judicial interference.

19. Further, the right to travel abroad, as recognized by the Hon'ble Supreme Court, forms an integral part of personal liberty under Article 21 of the Constitution of India. While such right is not absolute and may be subject to reasonable restrictions, any denial thereof must be supported by valid statutory grounds. Section 6 of the Passports Act exhaustively enumerates the grounds on which issuance of a passport may be refused. Notably, absence of

consent of one parent especially in circumstances, where custody is undisputed, is not one of the grounds contemplated under the statute. Therefore, the impugned action cannot be sustained even on statutory touchstone.

20. Equally important is the welfare of the minor child, which must remain the paramount consideration in all such matters. Denial of passport to a minor, who is under the lawful custody of one parent, on account of an impracticable procedural requirement, would operate to the detriment of the child's interests and opportunities. The law cannot compel compliance with a condition that is either impossible to fulfill or has become redundant in the given factual matrix. The contention of the respondents that the petitioner ought to have obtained consent of the father or complied strictly with procedural requirements does not impress this Court, particularly when the statutory framework itself provides for exceptions. Similarly, the argument that the petitioner voluntarily closed her subsequent application does not alter the legal position, as such closure appears to have been occasioned by the persistent insistence of the authorities on an untenable requirement.

21. In view of the aforesaid discussion, this Court is satisfied that the refusal of the respondent authorities to process the application of the petitioner solely on the ground of non-submission of consent of the father is arbitrary, unreasonable, and

not in consonance with the statutory provisions. The action also fails the test of proportionality and fairness, which are essential components of Article 14 of the Constitution. Accordingly, the stand taken by the respondents cannot be sustained in law.

22. Accordingly, the writ petition is **allowed**. The respondent authorities are directed to issue passport in favour of the minor petitioner, namely Sanvi Anand, without insisting upon consent of the father, subject to fulfillment of other formalities as required under law.

23. The aforesaid exercise shall be completed within a period of **four weeks** from the date of receipt of a copy of this order.

24. No order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

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