IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.15664 of 2025
Date of Decision: 01.10.2026

Shitla Devi

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? Yes.

For the Petitioner: Mr. Arsh Chauhan, Advocate.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

Sandeep Sharma, J. *(Oral)*

By way of the instant petition, petitioner has prayed for following main reliefs:

"1. Issue a writ in the nature of Certiorari or any other appropriate writ, order or direction quashing the adverse Police Verification Report (PVR) qua the petitioner's citizenship which erroneously records her as a foreign national.

2. Issue a writ in the nature of Mandamus or any other appropriate writ, order or direction directing the respondents to correct/rectify the Police Verification Report (PVR) in respect of the petitioner's passport application by recording her as a citizen of India by virtue of her birth in India on 03.05.1972 at Pattlikul (Manali), as per the mandate of Section 3 of the Citizenship Act, 1955 and in light of Annexures P-1 to P-8.

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3. Direct the respondent No. 5 (Regional Passport Officer, Shimla) to process and issue the passport to the petitioner expeditiously in accordance with law, without being influenced by the erroneous and adverse Police Verification Report.

4. Direct the respondents to produce before this Hon'ble Court the entire record pertaining to the petitioner's passport applications, including the impugned Police Verification Reports, correspondence exchanged and noting's, so that the legality and validity of the adverse verification report may be judicially examined."

2. Precisely, the grouse of the petitioner as has been highlighted in the petition and further canvassed by Mr. Arsh Chauhan, learned counsel representing the petitioner is that despite there being birth certificate issued by the competent authority suggestive of the fact that petitioner was born on 03.05.1972 at Village Patlikuhl, Manali (Annexure P-1), prayer made on behalf of the petitioner for issuance of passport is being denied on the ground that she is a Nepali national.

3. Pursuant to notice issued in the instant petition, respondents No. 2, 3 and 4 have filed their reply, wherein an attempt has been made to refute the claim of the petitioner on the ground that since petitioner is not an Indian national, her prayer for grant of passport cannot be accepted. Passport authority has rejected the application of the petitioner for grant of passport on the basis of police verification report, wherein it has been recorded that petitioner is a Nepali national.

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4. Heavy reliance has been placed upon communication dated 02.07.2025 issued under signature of Sub Divisional Magistrate, Manali, District Kullu, whereby Deputy Commissioner, Kullu came to be apprised that requisite verification report was sought from Tehsildar Manali, who on the basis of information shared by Pradhan and Up-Pradhan of Gram Panchayat Hallan-II has reported that present petitioner namely Smt. Shitla Devi, wife of Sh. Bachan Singh and her son, Sh. Rajesh, S/o Sh. Bachan Singh, are permanent residents of Nepal and are presently residing as tenants of Sh. Maan Chand, S/o late Sh. Krishan Lal, Village and Post Office Patlikuhl.

5. On the other hand, communication dated 29.11.2024 (Annexure R-4/5) reveals that police conducted verification, wherein Pradhan, Gram Panchayat Hallan categorically stated that Shitla Devi and Rajesh are the permanent residents of Village and Post Office Patlikuhl, Tehsil Manali, District Kullu and they are citizens of India as well.

6. Leaving everything aside, this Court finds that Registrar, Birth and Death, Gram Panchayat Hallan-II has issued birth certificate (Annexure P-1), wherein aforesaid authority while showing date of birth of the petitioner as 03.05.1972, has categorically recorded that child was born in Village Patlikuhl, Mohal Bari, Manali, Kullu, Himachal Pradesh.

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7. At this juncture, it is apt to take note of Section 3 of the Citizenship Act, 1955, which reads as under:

> "**3. Citizenship by birth**.—
> (1) Except as provided in sub-section (2), every person born in India,—
>
> **(a) on or after the 26th day of January, 1950, but before the 1st day of July, 1987**;
>
> (b) on or after the 01.07.1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth;
>
> (c) on or after the commencement of the Citizenship (Amendment) Act, 2003, where—
>
> (i) both of his parents are citizens of India; or
>
> (ii) one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth,
>
> **shall be a citizen of India by birth**.
>
> (2) A person shall not be such a citizen by virtue of this section if at the time of his birth—
>
> (a) his father or mother possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, is not a citizen of India; or
>
> (b) his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy."

8. Admittedly, in the case at hand, date of birth of the petitioner is 03.05.1972 and as such, for all intents and purposes, she can be said to be citizen of India. If it is so, prayer made on her behalf for issuance of

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passport cannot be turned down on the ground that she is not a citizen of India.

9. So far as the act of passport authorities in refusing to issue passport in favour of the petitioner that too on the basis of police verification report submitted by the respondent-State is concerned, this Court cannot find any fault with the same, but certainly, in the facts and circumstances of the case, as detailed hereinabove, respondent-State is required to issue fresh police verification report, specifically taking note of Section 3 of the Citizenship Act, 1955, as has been reproduced hereinabove.

10. Moreover, there are variations in the reports submitted by the police and Sub Divisional Magistrate. Pradhan of Gram Panchayat, Hallan, has stated to the police that petitioner as well as her son Rajesh Kumar are the residents of Kullu Manali, but these persons allegedly claimed before the Tehsildar, who conducted investigation pursuant to order passed by Sub Divisional Magistrate, that they are Nepali nationals. Be that as it may, once the petitioner, namely Shitala Devi, was born on 03.05.1972 within the territory of India, she, for all intents and purposes, can be said to be citizen of India in terms of Section 3 of the Citizenship Act, 1955. If it is so,

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there cannot be otherwise any impediment in considering the prayer made by the petitioner for issuance of passport.

11. Consequently, in view of the detailed discussion made herein above, this Court finds merit in the present petition and accordingly, same is allowed and respondent-State is directed to issue fresh police verification report with regard to character as well as residence of the petitioner within a period of two weeks, enabling the passport authorities to consider the prayer made by the petitioner for issuance of passport. Needless to say, authorities concerned while doing the needful in terms of directions contained in the instant order shall specifically take note of Section 3 of the Citizenship Act, 1955. In the aforesaid terms, present petition is disposed of along with pending applications, if any.

October 01, 2026 **(Sandeep Sharma),**
(manjit) **Judge**

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