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2023:PHHC:120520



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision : 13.09.2023

Balwinder Singh

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Paras Chander, Advocate and
Mr. A.S.Rai, Advocate
for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India
assisted by Mr. Dheeraj Jain, Sr. Panel Counsel
Mr. Karan Kumar Jund, Central Govt. Counsel and
Ms. Amrita Singh, , Central Govt. Counsel
for the respondents-Union of India.

Mr. Deepanjay Sharma, DAG, Punjab.

Mr. Raman Sharma, Addl.A.G., Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking directions to respondent to re-issue him passport.

2. The petitioner was issued passport on 14.02.2008 which expired on 13.02.2018. The petitioner vide application dated 12.06.2018 applied for re-issuance of passport. An FIR No.234 dated 20.09.2011, Police Station Division No.5, Ludhiana, under Sections 420 and 120-B of IPC came to be registered against the petitioner. The petitioner entered into compromise with complainant who has passed away. The petitioner on

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20.03.2018 applied for re-issuance of passport. The police submitted adverse verification report and passport authority closed file of the petitioner. The petitioner vide application dated 13.03.2020 again applied for the passport. The respondent issued show cause notice dated 23.02.2021 to the petitioner but he did not reply. The respondent on 18.11.2022 closed application of the petitioner.

3. Learned counsel for the petitioner submits that police has not filed its report under Section 173 Cr.P.C. against the petitioner, thus, case of the petitioner is neither covered by Clause (e) or (f) of Section 6(2) of Passport Act, 1967.

4. Learned State counsel on instructions from ASI Tarsem Lal, submits that till date the police has not completed investigation.

5. Learned counsel for the respondents-UOI submits that application of the petitioner has been closed and if petitioner files fresh application, it would be disposed of within 06 weeks considering the judgment of this Court in **Mohan Lal @ Mohna vs. Union of India and others, 2023 SCC Online (P&H) 1391.**

6. In the wake of statement of learned counsel for the respondents-UOI, the petition stands disposed of with liberty to the petitioner to move fresh application seeking passport. If fresh application is filed, it shall be disposed of, in accordance with law, within 06 weeks from the date of application.

7. Before parting with this order, it is inevitable to add that this Court, everyday, is adverting with more than 10 cases relating to passport. All the cases are arising on account of denial of passport. The passport authorities are denying passport on account of adverse police verification report. It has been noticed that police officials are sending incomplete

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report which is root cause of denial of passport. The police officials are casually disclosing that an FIR is pending against the applicant. They do not disclose actual status of the FIR. After notice of motion to passport authority as well as State, it comes out that police either has already filed cancellation report or police report under Section 173 of Cr.P.C. has not been filed or applicant has already been convicted. It has also been found that where there is conviction, a period of more than 05 years has passed away prior to the date of application and in many cases, the quantum of sentence awarded is less than 02 years. If complete information is submitted by police authorities, a substantial litigation may be avoided. This Court in **Mohan Lal's case (supra)** has concluded :

27. In view of above facts and findings, this court concludes and further holds:

i) Clause (f) of Section 6(2) of Passport Act, 1967 is inapplicable to post conviction or post acquittal proceedings.

ii) As soon as a person is convicted or acquitted, he would be governed by Clause (e) of Section 6(2) of 1967 Act.

iii) Notification dated 25.8.1993 is applicable to criminal proceedings pending before trial court and as per instructions dated 10.10.2019, mere registration of FIR is not sufficient whereas a case should be registered before Court and Court must have taken cognizance.

iv) Clause (e) of Section 6(2) can be invoked if an applicant; within 5 years preceding the date of application, for the commission of an offence involving moral turpitude has been sentenced to imprisonment of not less than 2 years.

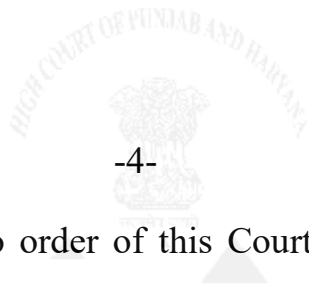
v) High Court is not criminal court in terms of Section 6(2)(f) of the 1967 Act.

8. To sort out the above-noted problem, vide order dated 20.04.2023, the passport authorities as well as police authorities were directed to hold a joint meeting and resolve the issue.

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Pursuant to order of this Court, a meeting was called by Mr. Satya Pal Jain, Additional Solicitor General of India. In the meeting, all the officials have agreed to resolve the issue and accordingly, a Performa has been prepared to resolve the issue. The performa prepared with the consent of all the parties is enclosed with this order as Annexure-A. This performa would form Part 'A' of the information furnished by Police Officials. In the performa, it has been made clear that police officials would disclose complete status of FIR i.e. whether police report under Section 173 of Cr.P.C. stands filed or not; whether there is stay granted by Court; whether charges stand framed; whether trial stands concluded; whether applicant has been convicted within 05 years preceding the date of application; whether sentence awarded is less or not less than 02 years; whether court has stayed conviction of the applicant etc.

9. Henceforth, all the police officials posted within jurisdiction of this Court would send their verification report in the enclosed performa. The passport authorities are also directed to ask police authorities to forward their report in aforesaid performa. It would avoid delay on the part of the police officials and minimise communication between the stakeholders.

10. Registrar General of this Court is directed to send copy of this order to all the passport authorities posted within the jurisdiction of this Court as well as DGP, Punjab/Haryana/U.T.Chandigarh.

(JAGMOHAN BANSAL)
JUDGE

13.09.2023

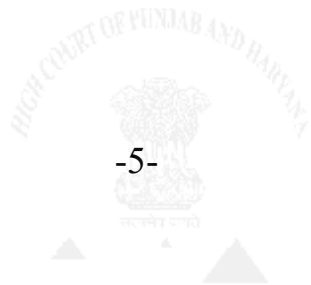
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>

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ANNEXURE-'A'PART-'A'

1. From local enquiry and document verification, is there conclusive proof that the applicant is a citizen of India?

Yes	No
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[If 'No', give detail along with reasons]

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2. Whether or not any 'FIR' is registered against the applicant?

Yes	No
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- (i) If yes, give details:-

Serial no.	FIR No. and date of registration	Police Station	Offences under section('s)
1.			
2.			

- (ii) Present Status of FIR('s):

- (a) Whether the matter is still under investigation?

Yes	No
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Or

- (b) Whether Police after investigation has prepared/filed untraced/Cancellation report against the applicant?

Yes	No
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[If yes, give details]

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- (c) Whether Police Report under Section 173 of Code of Criminal Procedure stands presented before competent Court against the applicant?

Yes	No
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[If yes, give details]

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- (iii) If Police Report has been filed, whether charges have been framed against the applicant?

Yes	No
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[If yes, give details]

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- (iv) Where police report is filed, whether Court has granted stay?

Yes	No
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[If yes, give Details]

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- (v) Where charges have been framed, whether Court has granted permission to issue passport to the applicant?

Yes	No
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[If yes, give details]

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3. Has the applicant been convicted for any crime during the preceding five years from the date of application and sentenced to imprisonment for two years or more?

Yes	No
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[If yes, give details]

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- (i) Whether Court has stayed conviction of the applicant who was convicted within 5 years preceding the date of application?

Yes	No
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[If yes, give details]

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- (ii) Whether the Court has granted permission to issue passport to the applicant?

Yes	No
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[Give Details]

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4. Has the applicant been convicted for any crime during the preceding five years and sentenced to imprisonment for less than two years?

Yes	No
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[If yes, give details]

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5. (i) Are there any pending warrants/summons for appearance of the applicant? Or

- (ii) Any warrant of arrest of the applicant has been issued by Court?

Yes	No
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[If yes, give Details]

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- (iii) Whether Court has stayed warrant/ summons issued against the applicant?

Yes	No
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[If yes, give Details]

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6. Has any Court made any order prohibiting the departure of the applicant from India?

Yes	No
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[If 'Yes' mention name of the Court, case number and present status of case]

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