

Case :- WRIT - C No. - 27460 of 2021

Petitioner :- Pramod Kumar Rajbhar

Respondent :- State Of U P And 2 Others

Counsel for Petitioner :- Sunil Kumar Singh

Counsel for Respondent :- C.S.C.,A.S.G.I.

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Vikram D. Chauhan,J.

Petitioner has applied for passport but his application apparently has not been considered on account of pendency of the State appeal against the judgment and order dated 23.12.2020 passed in Sessions Trial No. 63 of 2014 (State of U.P. Vs. Pramod Kumar) arising out of case Crime No. 133 of 2014.

It appears that criminal proceedings were initiated against the petitioners in case Crime No. 133 of 2014 under Sections 354-A, 506 and 376 I.P.C. and Section 3/4 of the PACSO Act, Police Station Pakadi District Ballia, which has ultimately led to petitioner's acquittal by the competent Sessions Court vide order dated 23.12.2020. The application for grant of passport apparently has been withheld only because Government Appeal has been filed in the matter. Section 6 of the Passports Act,1967 lays down the considerations for which a passport can be denied to an applicant and is reproduced:-

" 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 on 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."

The case of the petitioner would not fall in any of the category inasmuch as there is already an order of acquittal passed in his favour which has not been reversed in appeal. No order prejudicial to petitioner's interest otherwise has been passed. So long as the order of acquittal remains, the petitioner's innocence would be presumed and, therefore, petitioner's application cannot be declined merely on account of pendency of Government Appeal.

In view of the deliberations made above, this petition stands disposed of with a direction upon respondent no. 3 to process petitioner's application for grant of passport in light of the above observations, within a period of three months from the date of presentation of certified copy of this order.

Order Date :- 9.12.2021

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