

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION, PUNJAB,
CHANDIGARH.**

1. First Appeal No.54 of 2020

**Date of institution : 29.01.2020
Date of decision : 19.06.2020**

Regional Passport Office, SCO No.110, 2nd-4th floor, District Shopping Centre, Ranjit Avenue, Ajnala Road, Amritsar-143 001.

Present Address:

Regional Passport Office, Plot No.9, District Shopping Centre, Ranjit Avenue, Ajnala Road, Amritsar-143 001.

.....Appellant-Opposite Party No.2

Versus

1. Gurpreet Singh Mangat s/o Karnail Singh Mangat, R/o House No.B-VI/26, Talab Mohalla, Faridkot, Tehsil and District Faridkot.

.....Respondent No.1-Complainant

2. Secretary, Department of Home Affairs, Punjab, Civil Secretariat, Chandigarh-160 017.

3. Union of India through Secretary, Ministry of External Affairs, Jawahar Lal Nehru Bhawan, 23-D, Janpath, New Delhi-110 001.

4. Senior Superintendent of Police, Faridkot-151 203.

.....Respondent Nos.2 to 4-Opposite Parties Nos.1, 3 & 4

2. First Appeal No.55 of 2020

**Date of institution : 29.01.2020
Date of decision : 19.06.2020**

Regional Passport Office, SCO No.110, 2nd-4th floor, District Shopping Centre, Ranjit Avenue, Ajnala Road, Amritsar-143 001.

Present Address:

Regional Passport Office, Plot No.9, District Shopping Centre, Ranjit Avenue, Ajnala Road, Amritsar-143 001.

.....Appellant-Opposite Party No.2

Versus

1. Ravneet Singh, aged about 23 years son of Rajinder Singh r/o Village Gondara, Tehsil Jaitu, District Faridkot.

.....Respondent No.1-Complainant

2. Secretary, Department of Home Affairs, Punjab, Civil Secretariat, Chandigarh-160 017.

3. Union of India through Secretary, Ministry of External Affairs, Jawahar Lal Nehru Bhawan, 23-D, Janpath, New Delhi-110 001.

4. Senior Superintendent of Police, Faridkot-151 203.

.....Proforma Respondent Nos.2 to 4-OP Nos.1, 3 & 4

First Appeals against two different orders dated 3.12.2019 of the District Consumer Disputes Redressal Forum, Faridkot.

Quorum:-

Hon'ble Mr. Justice Paramjeet Singh Dhaliwal, President

- 1) Whether Reporters of the Newspapers may be allowed to see the Judgment? Yes/No
- 2) To be referred to the Reporters or not? Yes/No
- 3) Whether judgment should be reported in the Digest? Yes/No

Argued by:-

For the appellant : Shri Indresh Goel, Advocate.

For respondent No.1 : Ex parte.

For respondents Nos.2-4: Not summoned.

JUSTICE PARAMJEET SINGH DHALIWAL, PRESIDENT:

These appeals have been taken up today as on 21.4.2020 there was no sitting due to Covid-19 Pandemic as per administrative order dated 14.4.2020.

2. This order will dispose of the above noted two appeals, as the same have been directed against two orders dated 3.12.2019 passed in two different complaints by District Consumer Disputes Redressal Forum, Faridkot (in short, "District Forum"). The questions of law and facts involved in both the appeals are the same. The point involved in these appeals is with regard to issue/re-issue of passport by the passport authorities. The facts are taken from First Appeal No.54 of 2020.

3. It would be apposite to mention that hereinafter the parties will be referred, as have been arrayed before the District Forum.

First Appeal No.54 of 2020:

4. This appeal has been filed by the appellant/opposite party No.2 against the order dated 3.12.2019 passed by District Consumer Disputes Redressal Forum, Faridkot (in short, "District Forum"), whereby the complaint filed by respondent No.1/complainant, under Section 12 of the Consumer Protection Act, 1986 (in short, "C.P. Act") was allowed and it was directed to issue passport to the complainant within one month from the date of receipt of copy thereof.

Facts of the Complaint

5. Brief facts, as averred in the complaint, are to the effect that the complainant applied for re-issuance of passport with opposite party No.2 and his application was registered with file No.AS1072770109018. The complainant paid prescribed fee to opposite party No.2 and after processing the case for re-issuance of

passport, opposite party No.2 sent the case to the police for verification but in the verification of police it was reported that FIR No.248 dated 20.10.2016 under Sections 341/323/336/506/148/149 IPC and under Sections 25/27/54/59 of Arms Act was registered against the complainant in Police Station-City, Faridkot. It is further averred that the police did not report the true facts as in FIR No.248 dated 20.10.2016 enquiry is still pending and challan has also not been presented before the Court. No case is pending against the complainant regarding which opposite party No.2 has full notice and knowledge but it has been still issuing letters for seeking unnecessary clarifications. The complainant made several visits to the office of opposite party No.2 for re-issuance of his passport but the matter is kept pending under one pretext or the other. There is well settled law that mere registration of FIR does not make a person a convict until he is declared so by the Court. Opposite party No.2 has withheld the re-issue of passport to the complainant willfully, arbitrarily and without any reasonable cause. Alleging deficiency in service on the part of the opposite parties the consumer complaint was filed before the District Forum for issuance of directions to them to issue passport and to pay compensation of ₹80,000/- and ₹15,000/-, as litigation expenses.

Defence of Opposite Parties Nos.1 and 4:

4. Upon notice, opposite parties Nos.1 and 4 appeared before the District Forum and filed written statement to the complaint, raising preliminary objections that FIR No.248 dated 20.10.2016 was

registered against the complainant and others under Sections 341/323/336/506/148/149 IPC and under Sections 25/27/54/59 of Arms Act at the instance of Baljit Singh and after completion of investigation proceedings, police submitted charge-sheet against them in the concerned Court. Challan under Section 173 Cr.P.C. was prepared on 20.7.2017 and the trial is yet to commence. Since trial is still pending the presence of accused is necessary in the Court till the completion of trial. Thus, passport cannot be recommended to be issued to him. In FIR No.248 dated 20.10.2016 the complainant was arrested and was released on regular bail. The police has narrated all the true and correct information to opposite party No.2 regarding pendency of above said FIR. There is no irregularity in the report submitted by the police to opposite party No.2. Moreover, there is no relationship of 'consumer' and 'service provider' between complainant and opposite party Nos.1 and 4. The dispute is mainly between the complainant and opposite parties Nos.2 and 3. Denying all other allegations made against them a prayer for dismissal of the complaint qua them was made.

5. Registered notices were sent to opposite parties Nos.2 and 3. Opposite party No.2 was duly served but it did not appear before the District Forum despite several calls and was proceeded against ex parte. Registered notice sent to opposite party No.3 was, however, did not receive back undelivered. It was declared by the District Forum that opposite party No.3 had been duly served but nobody appeared in the District Forum on its behalf either in person or

through counsel and, as such, it was proceeded against ex parte, vide order dated 15.7.2019.

6. Meanwhile, during the pendency of the complaint before the District Forum a letter was received from opposite parties Nos.2 and 3 denying therein all the allegations made against them. It was asserted that passport is not an item, which can be purchased or sold but it is a sovereign function and, thus, Passport Offices do not fall within the purview of 'service provider' and the District Forum has no jurisdiction to hear and try the complaint. It was further asserted that complaint is not maintainable and is liable to be dismissed.

Evidence of the Parties:

7. The complainant tendered in evidence his own affidavit as Ex.C-1 along with documents Ex.C-2 to Ex.C-6.

8. On the other hand, opposite parties Nos.1 and 4 tendered in evidence affidavit of Jastinder Singh (PPS), Deputy Superintendent of Police, Sub Division Faridkot, as Ex.OP-1 & 4/1 and copy of FIR 248 dated 20.10.2016 as Ex.OP-1 & 4/2.

Finding of the District Forum:

8. The District Forum, after going through the record and hearing learned counsel for the parties, allowed the complaint, vide impugned order. Hence, this appeal by opposite party No.2.

9. Notice of the appeal was issued to respondent No.1/complainant, but he did not appear despite service and, as such, was proceeded against ex parte, vide order dated 17.3.2020.

Contentions of the Parties

10. I have heard learned counsel for the appellant/opposite party No.2 and have carefully gone through the records of the case.

11. Learned counsel for the appellant/opposite party No.2 has vehemently contended that the impugned order passed by the District Forum is illegal and against the settled law. The issuance of a passport is a sovereign function of the passport issuing authorities. Passport is not a common commodity and rather it is a valid permission for citizen to enter into another country. Issuance of passport does not come under the definition of 'service' as defined in the C.P. Act and, thus, this matter does not come under the purview of the C.P. Act. It is further contended that the Passport Authority can refuse a passport to an applicant on valid grounds. The complainant applied for re-issuance of passport and the same has been denied on the ground of adverse police verification in which it is found that FIR No.248 dated 20.20.2016 was registered against him and others under Sections 341/323/336/506/148/149 IPC and under Sections 25/27/54/59 of the Arms Act, which is still pending for which presence of the complainant would be required in the concerned Court. The District Forum has not considered all these facts and passed an illegal and arbitrary order, which is liable to be set aside by allowing the present appeal. In support of his contentions, learned counsel for the appellant/opposite party No.2 placed reliance upon following cases:

- i) **S. Vijayakumar v. Regional Passport Officer** Revision Petition No.3322 of 2009 decided on 10.04.2015 (NC);
- ii) **Passport Officer v. Ajay Bansal** Revision Petition No. 3785 of 2013 decided vide order dated 13.03.2015 (NC); and
- iii) **Passport Officer v. Avtar Singh** F.A. No.856 of 2012, decided by this Commission 08.10.2015.

Consideration of Contentions

12. I have given my thoughtful consideration to the contentions raised by the learned counsel for the appellants/opposite parties.

13. Admittedly, the complainant applied for re-issue of passport with opposite party No.2, which was registered, vide File No.AS1072770109018. The case of the complainant was processed and sent to the police authorities for verification by opposite party No.2. The police conducted a thorough investigation in which it was found that FIR No.248 dated 20.10.2016 was registered against him and others under Sections 341/323/336/506/148/149 IPC and under Sections 25/27/54/59 of the Arms Act, which is still pending for which presence of the complainant would be required in the concerned Court.

14. The only legal question to be determined in this appeal is, whether the complainant falls under the definition of a 'consumer' and whether the duties of the passport office fall under the definition of 'service', as defined in the C.P. Act?

15. This issue is no more res integra. The issuance of the passport or making any correction in it by the Central Government or by any

authority empowered under the [Passport Act](#) is a sovereign act, which has to be performed by the authorities according to the prescribed rules. Every passport application passes through prescribed internal security procedures as well as the same is investigated through security agencies, such as police and CID etc. [The Passport Act](#) also provides for refusal/impounding/revocation and appeal procedures under [Sections 6, 10 and 11](#) of the said Act. In the present case, the pendency of above said FIR against the complainant raised suspicion in the mind of opposite party No.2 and they refused to re-issue the passport as sought by the complainant. The passport is very important document and as per the provisions of the said Act, it is to be issued or any correction is to be made therein by the Passport Officer after satisfying himself about a number of facts. If while verifying all those facts, even a thin line of suspicion appears, the Passport Officer can be said to be justified in refusing to issue the passport or effecting corrections therein. Moreover, as per [Section 17](#) of that Act, a passport at all times remains the property of the Central Government and, as such, no one can claim it as a matter of right. In these circumstances, the dispute raised by the complainant in the complaint does not constitute a 'consumer dispute' and he does not fall under the definition of 'consumer' as contained in [Section 2\(1\) \(d\)](#) of the C.P. Act.

16. Hon'ble Supreme Court in **K.K. Kataria v. Asstt. Regional Passport Office** 1998 (1) CCC 201 held that passport is not a

commodity , which can be purchased or sold for consideration, but it is only a nature of permission granted by the sovereign to its citizens to go outside the country. It was further held that the function of the Central Government, which is required to be performed under the Passport Act, could not be equated with the definition of ‘service’ rendered to a consumer as defined in the C.P. Act.

17. In another case “**NrisinghaMuram Chakraborty & Ors. v. State of West Bengal**” AIR 1977 SC 1174, it was held by the Hon’ble Supreme Court that passport, by virtue of its nature and purpose, is a political document for the benefit of its holder, as it recognizes him as citizen of the country and the same is granted to a person in the nature of request to another country for his free passage therein.

18. Hon’ble National Commission in **S. Vijayakumar’s** case (supra) has held as under:

“In so far as this Commission is concerned, the issue is no longer res integra. In a catena of decisions rendered by this Commission, it has been held that issuance of a passport is a statutory function and the Passport Officer cannot be held to be a 'Service Provider' and, therefore, the complaint under the Act for delay in issuing the passport would not be maintainable. In this behalf, it would suffice to make reference to a recent order dated 13.03.2015 passed in Revision Petition No. 3785 of 2013 (Passport Officer Vs. Ajay Bansal), wherein referring to the earlier orders passed by this Commission and also the decisions of the Hon’ble Supreme Court in Standard Chartered Bank Ltd. Vs. Dr. B.N. Raman - (2006) 5 SCC 727 and Bihar School Examination

Board Vs. Suresh Prasad Sinha - (2009) 8 SCC 483, a co-ordinate Bench of this Commission has also taken the aforestated view."

19. Further, in "**Ved Parkash v. Union of India**" Original Petition No.78 of 1995 decided by the Hon'ble National Commission on 13.3.1996, the complainant alleged delay in the renewal of the passport. It was held by the Hon'ble National Commission that the same does not constitute a 'consumer dispute'; which can be validly entertained and adjudicated by the Commission under the C.P. Act.

20. Similarly, in "**Regional Passport Officer v. Santosh Chauhan**" III (2006) CPJ 406, there was delay in issuing the passport. After discussing the case law on the subject, it was held by the Haryana State Commission that the complainant had no right to invoke the jurisdiction of the District Forum seeking direction to the opposite party to issue passport to him and other reliefs, as he cannot be said to be the 'consumer' under Section 2(1)(d) of the C.P. Act.

21. Furthermore, this Commission while deciding FA No.226 of 2010 "**Regional Passport Officer and Anr. v. Tarwinderjit Singh**", vide order dated 07.05.2013, held that a person either applying for the issuance of the passport or renewal thereof to the Passport Officer does not fall under the definition of the 'consumer', as defined in the C.P. Act.

22. Similar law was laid down by this Commission in First Appeal No.856 of 2012 (***Passport Officer v. Avtar Singh Gondara***), vide order dated 08.10.2015.

23. In view of the law laid down in the above noted authorities as well as the facts and circumstances discussed above, it is clear that the service provided by the passport authorities cannot be equated with the meaning of 'service' and the complainant cannot be held to be a 'consumer', as defined in the C.P. Act. The District Forum failed to take notice of all these facts, while passing the impugned order.

24. In view of my above discussion, the appeal is allowed and impugned order is set aside. Consequently, the complaint filed by the complainant is dismissed, being not maintainable.

First Appeal No.55 of 2020:

25. In this case, the complainant applied for issuance of passport with opposite party No.2, which was registered with it, vide File No.AS1062107809418. In the police verification it was reported that FIR No.86 dated 13.8.2014 under Sections 457/380/411/34 of IPC was registered against him in Police Station Bajakhana. Rest of the averments are almost same as have been mentioned in the complaint in FA No.54 of 2020.

26. Opposite parties Nos.1 and 4 appeared and filed their joint written statement asserting therein that FIR No.86 dated 13.8.2014 was registered against the complainant and others under Section 457/380/411/34 IPC at the instance of Jaspreet Kaur and after completion of investigation proceedings, police submitted the challan

against Rajinder Singh and Suchetpal Kaur and put the name of remaining accused; namely, Ravneet Singh (complainant in the present case) and Rashneet Singh in column No.2. The complainant was summoned to face trial, vide order dated 3.8.2018 by the concerned Trial Court but the complainant has not appeared before the said Court. Rest of the averments are same as have been made by opposite parties Nos.1 and 4 to the complaint in FA No.54 of 2020.

27. Opposite parties Nos.2 and 3 were issued registered notices and the same did not receive back in the District Forum undelivered. Opposite parties Nos.2 and 3 were declared duly served by the District Forum but nobody appeared before it on their behalf either in person or through counsel. Therefore, opposite parties Nos.2 and 3 were proceeded against ex parte, vide order dated 25.9.2019. However, a letter was received from opposite parties Nos.2 and 3 in which similar averments have been made as have been made in the letter received in the complaint against which FA No.54 of 2020 was filed.

28. In order to prove his case, the complainant tendered his own affidavit as Ex.C-1. On the other hand, opposite parties No.1 & 4 tendered affidavit of Gurpreet Singh (PPS), DSP, Sub Division Jaitu as Ex.OP1&4/1 and copy of FIR Ex.OP1&4/2.

29. The District Forum after going through the record and hearing learned counsel for parties, allowed the complaint, vide impugned order dated 3.12.2019, directing opposite parties to issue passport to

the complainant within one month from the date of receipt of copy thereof. Hence, the present appeal by appellant/opposite party No.2.

30. Similar arguments have been raised by the learned counsel for the appellant-opposite party No.2 as have been raised by him in FA No.54 of 2020.

31. In view of the reasons and discussion held in First Appeal No.54 of 2020, this appeal is allowed and the impugned order passed by the District Forum is set aside. Consequently, the complaint filed by the complainant is dismissed, being not maintainable.

**(JUSTICE PARAMJEET SINGH DHALIWAL)
PRESIDENT**

**June 19, 2020
Bansal**