

(2018) 07 P&H CK 0292

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 18346 Of 2017

Jatin Khosla

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 16-07-2018

Acts Referred:

Passport Act, 1997 — Section 6(1)(a)

Citation : (2018) 3 RCR(Civ) 968

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Navkiran Singh, Indresh Goyal

Final Decision : Allowed

Judgement

Ritu Bahri , J

Petitioner- Jatin Khosla who is an old Indian Passport holder bearing No. E0178364 issued on 05.11.2001, issued a Student Visa for the Republic of

Cyprus on 11.03.2004 and he travelled to Cyprus on 14.03.2004 on a valid visa and passport i.e Annexure P-2. However, while in Cyprus, the

petitioner was misguided by an agent and advised to file for a political asylum in Cyprus. The petitioner subsequently applied for political asylum, but

was refused and thereafter, he had to apply for an Emergency Certificate in order to travel back to India, which was given to him vide Emergency

Certificate No. X465866 dated 19.12.2013 (P-3). The petitioner then returned to India on 31.12.2013. Thereafter, he married to one Satwinder Kaur

on 22.01.2014, who is a permanent resident of Abbotsford, Canada. The copy of marriage certificate dated 28.07.2014 is Annexure P-4. Since the

petitioner's old passport expired, he applied for re-issuance of passport, vide fee receipt dated 04.06.2014 (Annexure P-5). The Ministry of External

Affairs via its Passport Officer, Jalandhar refused to grant a passport to the petitioner vide letter dated 19.08.2014 (Annexure P-6). An appeal filed

against the above said order but vide letter dated 07.04.2016, the petitioner was informed that his case was deferred till the final outcome of LPA No.

13/2016 at Delhi High Court. Hence the present writ petition.

Learned counsel for the petitioner at the very outset has referred to LPA No. 13-2016 titled as Union of India and anr v. Satnam Singh, decided on

12.01.2018 dismissing the appeals filed by Union of India wherein the question was that whether the activities of passport applicant, while visiting a

foreign country on Indian Passport and then applying in that country for asylum, can be construed as "prejudicial to the sovereignty and integrity of

India" resulting in justifiable refusal to grant passport to such individual on that ground under Section 6 (1) (a) of the Passport Act, 1967. In Para

No. 24 and 25, the Division Bench of Delhi High Court observed as under:-

"24. The affidavit filed by the Appellants states that from the information received from the 37 RPOs, it is found that a total of 85 cases wherein

the applicants came back to India or were deported by a foreign government after rejection of their requests for political asylum, are still pending from

the year 2013 to 2015. Generally, political asylum in a foreign country is sought by people who fear persecution in their own country and are,

therefore, unwilling to return and such an act might bring disrepute to India, given that instances of people seeking passport after having been refused

political asylum by a foreign country have risen in the recent years as in terms of the data provided by the Appellants. However in these cases, this

Court concurs with the view in the impugned orders (and Kulvir) that, however, condemnable the act of seeking political asylum in a foreign land, ipso

facto, (i.e. by itself, and without any other fact showing that the applicant had involved himself or herself with activities of any individual or groups that

plot, or had conspired, or are conspiring violence and other such activities to undermine the establishments in India or a section of its people) it cannot

possibly be a ground to deny passport under Section 6 (1) (a) of the Act.

25. In light of the above case laws and provisions, it is clear that the provisions of the Act should be strictly construed as they have the LPA 13/2016

& connected matters Page 18 of 18 consequence of depriving a person of his essential rights, and such deprivation should not be done lightly, but

within the confines of the legislative provision. This Court, therefore, holds that the impugned orders as well as Kulvir (supra) have correctly

appreciated the law and the applicable principles. For the foregoing reasons, the appeals have to fail; they are dismissed. No costs.â??

Learned counsel for the petitioner has further informed the Court that in the above LPA decided by Delhi High Court, the petitioner was also in one of those 85 candidates, whose case was rejected.

Learned counsel for the respondents has not disputed the above said fact and submits that even otherwise, the petitioner is eligible for re-issuance of passport after 19.12.2018.

In view of the discussions made above, the present writ petition is allowed and order 19.08.2014 is set aside and respondent-department is directed to

consider the case of the petitioner for issuance of the passport, as his case is squarely covered by the decision in Satnam Singh's case (supra) and pass appropriate orders, expeditiously, in accordance with law.