
(2022) 12 DEL CK 0054

In the Delhi High Court

Case No : Civil Writ Petition No. 15756 Of 2022, Civil Miscellaneous Application No. 49031 Of 2022

Mirza Rashid Beg

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 09-12-2022

Acts Referred:

Citation : (2022) 12 DEL CK 0054

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Rajeev Saxena, Siddhart Luthra, Nidhi Banga

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - Mr. Mirza Rashid Beg, seeking directions to the Respondents to incorporate a change in respect of his date of birth, in his passport bearing No.W2079074, and issue an updated passport.
3. It is the case of the Petitioner that his correct date of birth is 27th July, 1966. However, in all his earlier passports, the date of birth was reflected as 10th December, 1965. In view of the fact that all his other documents of identification have the correct date of birth, he seeks to rectify the same in his passport.
4. It is not in dispute that the first passport was issued to the Petitioner by the Regional Passport Office, Delhi on 11th April, 2014, valid upto 10th April, 2024. Since then, the Petitioner had not applied for a change in his date of birth. However, it appears that the other documents of identification of the Petitioner, such as Aadhaar Card, PAN Card, and Driving License, also reflect the correct date of birth of the Petitioner.

5. It is submitted that the Petitioner has obtained an online copy of his birth certificate from the Municipal Corporation of Delhi on 12th October, 2019. The said birth certificate, with reference No.348/8 and date of registration being 3rd August, 1966, also shows his date of birth as 27th July, 1966. Thus, under such circumstances, in order to ensure that there is no disparity between his passport and his other documents of identification, the Petitioner has filed the present petition seeking the following prayers:

"(i) issue an appropriate writ, direction or order thereby, directing the Respondents to incorporate change of date of birth of the Petitioner incorporating his correct date of birth 27.07.1966 in place of 10.12.1965, as earlier recorded in passport bearing NO.W2079074 and issue a duly corrected passport to the Petitioner.

Issue any such other appropriate writ, direction or order as this Hon'ble Court may deem fit, in the facts and circumstances of the case, in the interest of justice, equity and fair trial."

6. Heard Id. Counsels for the parties and perused the record. The rectification of date of birth in a passport, would be governed by the Passport Act, 1967 and the Rules framed thereunder. It is the settled legal position that the date of birth in the passport ought to be matching with the birth certificate of the passport holder. Thus, whenever there is an application for change of date of birth, the passport authority would have to verify all the documents of identification of the Applicant, as also, the authenticity and genuineness of the birth certificate. The passport authority shall ensure that the same relates to the Applicant. Upon verifying the same, the rectification in the date of birth of the Applicant can be carried out, after satisfaction is duly recorded.

7. This position of law was reiterated by this Court in Deep Chandra Harbola v. UOI & Anr. [W.P.(C) 6171/2020, decided on 2nd February, 2021], wherein this Court followed the judgment in Sunita Sawhney v. Union of India [WP(C) 10839/2015, decided on 3rd December, 2015]. The relevant portion of the said judgment is set out herein below:

"6. Heard Id. counsels for the parties. The Passport Authority, appears to have relied upon the office memorandum dated 26th November, 2015, issued by the CPV division, Ministry of External Affairs, prescribing guidelines with regard to change/ correction of dates of birth in passports already held by applicants...The relevant extract of the said Memorandum reads:

"(ii) If an applicant applies for the change of date of birth in the passport within a reasonable period of time i.e. within a span of five (5) years from the date of issue of passport having the alleged wrong date of birth, with the birth certificate issued by the Registrar of Births & Deaths stating that the date of birth recorded in the passport was based on the entries mentioned documents other than the Birth Certificate, the request of such an applicant irrespective of the difference in the dates of birth, may be considered by the Passport Issuing Authority.

However, before the issuance of passport with changed date of birth, the Passport Authority shall also levy appropriate penalty on the applicant for obtaining passport on previous occasion by providing wrong information regarding his/her date of birth."...

7. Ld. counsel for the Petitioner has relied upon the judgment of a Id. Single judge of this court in Sunita Sawhney (supra) wherein it was held as under: ...

8. In the abovementioned decision, the Court has categorically held that irrespective of the amount of delay which may have been there in applying for a change of date of birth, the same cannot be refused. As long as the genuineness of the birth certificate is not in dispute, the Applicant ought to be allowed to change the date of birth in accordance with the birth certificate. The same principle is also applicable to the change in place of birth.

9. Reliance is also placed upon the judgment in Nisha Kamboj (supra) wherein a Id. Single Judge of this Court has held:

"4. However, keeping in view the aforesaid judgments cited by learned counsel for petitioner as well as the fact that the petitioner is relying upon a statutory document, namely, birth certificate issued under the Act, 1969, this Court is of the view that petitioner's request for change of place of birth should be examined by the passport authority itself."

8. In view of the fact that the prayer of the Petitioner in the present petition is merely for consideration of his application for change of date of birth, it is directed that the passport authority would verify all the documents of identification of the Petitioner, and thereafter, consider and process his application seeking rectification, in accordance with law. The decision of the passport authority shall be communicated to the Petitioner, within four months. If the said decision is not in favour of the Petitioner, all the remedies of the Petitioner are left open.

9. It is made clear that the merits of the matter and the contentions of the parties have not been examined by this Court.

10. The present petition is disposed of in the above terms. All pending applications are also disposed of.