

(2016) 09 DEL CK 0144

In the Delhi High Court

Case No : Writ Petition (C) 6287 of 2016.

Tenzin Chuki - Petitioner @HASH Union of India and Another

Date of Decision : 28-09-2016

Acts Referred:

Citizenship Act, 1955 — Section 3(1)(a), Section 3(2), Section 9(2)
Constitution of India, 1950 — Article 226

Citation : (2016) 234 DLT 21

Hon'ble Judges : Sanjeev Sachdeva, J.

Bench : Single Bench

Advocate : Mr. S.N. Pandey, Advocate, for the Petitioner; Mr. R.V. Sinha, Advocate, for the Respondents No. 1 and 2

Final Decision : Allowed

Judgement

Sanjeev Sachdeva, J. (Oral)—The petitioner seeks a direction to the respondent to renew the Indian Passport of the petitioner by treating the petitioner as an Indian citizen in terms of Section 3(1)(a) of the Citizenship Act, 1955 (hereinafter referred to as the Act).

2. Learned counsel for the respondents relies on the resolution of the Ministry of Home Affairs dated 13th May, 2010 wherein it has been recorded that children born to Tibetan Refugees in India will not be treated as Indian citizen automatically based on their birth in India before 01.07.1987 under Section 3(1) (a) of the Act and they shall have to file an application under Section 9 (2) of the Act to the Ministry of Home Affairs and thereafter the nationality status could be considered on case to case basis.

3. This issue has already been decided by this Court by judgment dated 22.09.2016 in W.P.(C) 3539/2016 titled as Phuntsok Wangyal v. Ministry Of External Affairs & Ors., and the other connected petitions, wherein this Court has held that persons who satisfies the requirement of Section 3(1) of the Act and does not suffer from any disqualification as mentioned in Section 3(2) cannot be denied the Indian Passport on the ground that they are not Indian citizens.

4. The petitioner was born in India on 03.03.1977 and satisfies the requirement of Section 3(1) (a) of the Act i.e. born on or after the 26th day of January, 1950 but before the 1st day of July, 1987. It is not the case of the Respondents that the petitioner suffers from any disqualification from 3(2) of the Act.

5. The petitioner is covered by the decision of this Court in Phuntsok Wangyal (Supra).

6. In view of the above, the Writ petition is allowed in the above terms.

Respondents are directed to issue the Indian Passport to the petitioner within a period of four weeks in accordance with the Rules.

7. The writ petition is disposed of with no order as to costs.

8. Order Dasti under the signatures of the Court Master.