
(2013) 04 PAT CK 0021
In the Patna High Court
Case No : CWJC No. 2078 of 2013

Twisha Prasad

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 17-04-2013

Acts Referred:

Passports Act, 1967 — Section 12, 12(1)(b)

Citation : (2013) 4 PLJR 382

Hon'ble Judges : Jayanandan Singh, J

Bench : Single Bench

Advocate : Chittaranjan Sinha and Siddhartha Prasad, for the Appellant; N.A. Shamsi, for the Respondent

Judgement

Jayanandan Singh, J.—Petitioner has filed this writ application challenging the communication dated 6.9.2012, as contained in Annexure-8, by which she has been informed that a penalty of Rs. 500/- has been imposed on her as she had not mentioned in her application form while applying that she was studying in Guwahati. Learned senior counsel for the petitioner submits that the petitioner had submitted an application for passport with the Regional Passport Office, Patna giving her permanent address, a copy whereof is annexed as Annexure-1 with the writ application. However, in the application, inadvertently she does not disclose that on the date of application she was a student of IIT, Guwahati. Later on, this information was furnished to the Passport Officer on the basis of which the necessary reports were called for from the police at Guwahati and the same was submitted by the S.S.P., Guwahati which was received in the Passport Office. He submits that this fact has been acknowledged in the impugned communication also. Hence, it has been held that there was no need for the petitioner to surrender her passport. He submits that the passport office has not found that the information was wrong or was suppressed deliberately. Hence, there was no deliberate suppression of any fact by the petitioner.

2. A counter affidavit has been filed in this case. Learned counsel appearing for

the respondents submits that since information of present status of the petitioner had not been furnished in the application she was liable to be imposed a penalty in terms of Section 12(1)(b) of the Passport Act, 1967.

3. The Section 12(1)(b) of the Passport Act reads as follows:--

Knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document shall be punishable with imprisonment for a term which may extend to [two years or with fine which may be extend to five thousand rupees] or with both.

4. A bare reading of the said Section shows that mens rea is essentially attached to any act or omission by an applicant to attract the penalty. A false information or suppression of material information has been held an offence liable to imposition of penalty only if the same is done "knowingly" and "with a view to obtain a passport or travel document" under the Act or without lawful authority. Apparently, the intention of the petitioner was not to obtain passport by suppression of any material fact. Though the petitioner had not mentioned her present status in her application, but admittedly, soon thereafter, she furnished the same on the basis of which the passport office had acted and had called for a report from Guwahati police which submitted the report in favour of the petitioner. In the circumstances, no mens rea can be attached to the said act or omission of the petitioner. As such, this Court is of the view that the petitioner is not liable to be held to have committed any offence in terms of the said clause (b) of sub-section (1) of Section 12 of the Passport Act and, therefore, not liable for any penalty. The impugned order of the Assistant Passport Officer dated 6.9.2012, communicating the petitioner to deposit Rs. 500/- as penalty, is therefore quashed.