



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No.2602/2024

Savitri Sharma Daughter Of Late Shri Jagannath Sharma Wife Of Shri Arun Prasad, Aged About 33 Years, Resident Of 90A, Shankar Nagar, Near Jaidurga School, Mount Road, P.s. Brampuri, Jaipur City-302002.

----Petitioner

Versus

1. Union Of India, Through Its Secretary, Ministry Of External Affairs, Regional Passport Office, Government Of India, New Delhi.
2. The Regional Passport Office, Through Senior Superintendent (Policy), G-14, Jhalana Institutional Area, Jhalana Doongri, Jaipur.

----Respondents

For Petitioner(s) : Mr. Rakesh Chandel
Mr. Abhinav Bhandari
For Respondent(s) : Ms. Manjeet Kaur

JUSTICE ANOOP KUMAR DHAND

Order

14/11/2024

Reportable:-

1. By way of filing of this writ petition, a prayer has been made for issuing directions to the respondents to renew the passport of the petitioner.
2. Learned counsel for the petitioner submits that the petitioner is an Indian National and she was having passport bearing No.K3335738, which was issued to her on 17.05.2012 and the same was valid till 16.05.2022. Learned counsel submits that when an application was submitted by the petitioner for renewal of the aforesaid passport, it has not been renewed by the



respondents and the said application was rejected, without assigning any justified reason in writing, hence under these circumstances, the petitioner has approached this Court.

3. Learned counsel for the respondents opposed the arguments raised by learned counsel for the petitioner and submitted that the Regional Passport Office, Delhi sought a verification report from the Police in this regard and an adverse report was submitted by the Police on 07.08.2022 with the remarks, "Photo identical Nationality doubtful (Nepali) as per applicant written statement". Learned counsel submits that the identity of the petitioner was disputed during the police verification, hence under this circumstance, the respondents have not renewed the passport of the petitioner.

4. Heard and considered the submissions made at Bar and perused the material available on the record.

5. Perusal of the record indicates that the petitioner was in possession of a valid passport bearing No.K3335738 issued by the respondents and the same was valid w.e.f. 17.05.2012 till 16.05.2022.

6. When the validity of the said passport expired, the petitioner approached the respondent-authorities for renewal of the same but this time a technical objection was raised by the respondent-authorities on the basis of the adverse police verification report and the passport has not been renewed. The reason assigned by the respondents for non-renewal was about the nationality of the petitioner and no material evidence has been placed on record disputing the same by the respondents.



7. Clearly, there is no material placed on the record by the respondents that the petitioner is not an Indian National. There is no dispute, as to the fact that she was born at Central Jail, Tihar Complex at Delhi on 05.05.1990 and the Sub-Registrar, Death and Birth Municipal Corporation, Delhi has issued birth certificate of the petitioner. Thereafter, the petitioner passed Higher Secondary and Senior Secondary School Examination from Central Board of Secondary Education (for short 'CBSE') and the Permanent Account Number (PAN) Card has been issued to her by the Income Tax Department. The Competent Authorities have issued her Aadhar Card, Voter Card and Driving License. The marriage of the petitioner was solemnized on 23.11.2017 with Arun Prasad and her marriage has been registered and Marriage Registration Certificate has been issued by the Marriage Registration Officer at Jaipur. The husband and father of the petitioner both are the permanent residents of India. Thus, the petitioner has acquired the citizenship of this country by virtue of Section 3 (1)(b) of the Citizenship Act, 1955. Various documents annexed with the writ petition indicate that they are Indian National and the respondents have not been able to show any material, which would even remotely cast a doubt on the aforesaid fact.

8. Before proceeding further it would be relevant to set out Section 3 and Section 9 of the Citizenship Act, 1955 which read as under:-

"3. Citizenship by birth- (1) Except as provided in sub-section (2), every person born in India,-
(a) on or after the 26th day of January, 1950, but before the 1st day of July, 1987;
(b) on or after the 1st day of July, 1987, but before the commencement of the Citizenship





(Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth;

(c) on or after the commencement of the Citizenship (Amendment) Act, 2003, where-

(i) both of his parents are citizens of India; or

(ii) one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth.

(2) A person shall not be a citizen of India by virtue of this section if at the time of his birth-

(a) either his father or mother possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, is not a citizen of India; or

(b) his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.

9. Termination of citizenship-(1) Any citizen of India who by naturalisation, registration otherwise voluntarily acquires, or has at any time between the 26th January, 1950 and the commencement of this Act, voluntarily acquired the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India:

Provided that nothing in this sub-section shall apply to a citizen of India who, during any war in which India may be engaged, voluntarily acquires, the citizenship of another country, until the Central Government otherwise directs.

(2) If any question arises as to whether, when or how any [citizen of India] has acquired the citizenship of another country, it shall be determined by such authority, in such manner, and having regard to such rules of evidence, as may be prescribed in this behalf."

9. It is apparent from a plain reading of Section 3(1)(b) of the Citizenship Act, 1955 that every person born in India on or after 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth would acquire citizenship by birth. The only exception set out is under sub-section (2) of Section 3 of the said Act. In cases where either of the parents of





the person possess immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and the said parent is not a citizen of India, the person born in India would not acquire Indian citizenship. The second exception being in case where either of the parents of the person is an enemy alien and the birth occurs in a place then under occupation by the enemy. Plainly none of these two exceptions are applicable in this case.

10. The petitioner is neither a "Nepali" nor she possesses any document in this regard and there is no material which would raise any doubt as to the citizenship of the petitioner.

11. This Court cannot ignore the domicile of origin of the petitioner. Petitioner was admittedly born in India and her domicile of origin is India. The domicile of origin is a concept of law and clings to a person until he/she abandon it by acquiring a new domicile of choice. The petitioner was born in India and her domicile of origin is India and when her father and husband are permanent citizens of India, then the objection raised by the respondents remarked as "the photo identical nationality doubtful (Nepali)" is unsustainable.

12. Had it been a case of the respondents that the petitioner is not an Indian National then certainly the respondents should not have issued passport to the petitioner in the year 2012. The objection taken by the respondents has no basis, hence under these circumstances, action of the respondents for not renewing the passport of the petitioner, is not justified.

13. A person living in India has a fundamental right to travel abroad under Article 21 of the Constitution of India and he/she





cannot be denied issuance of passport on the grounds, which are not tenable in the eye of law. Factually, a passport is a necessary condition for travelling abroad and by withholding the passport, the Government can effectively deprive him of his right. In international law, it is now well-settled that no State/Central Government permits an alien to enter its territory without a valid passport.

14. In **Satwant Singh Sawhney Versus D. Ramarathnam and Ors.** reported in **1967 (3) SCR 525**, the Apex Court highlighted the importance of passport as it is never possible for a person residing in India to visit foreign countries or to return without the possession of a valid passport. Paragraph 7 reads as follows:

"7. As a result of international convention and usage among nations it is not possible for a person residing in India to visit foreign countries, with a few exceptions, without the possession of a passport. The Govt, of India has issued instructions to shipping and airline companies not to take on board passengers leaving India unless they possess valid passport. Under Section 8 of the Indian Passport Act, 1920, the Central Government may make rules requiring that persons enter into India shall be in possession of passport. In exercise of the powers conferred under Section 8 of the said Act rules were made by the Central Government. Under Rule 3 thereof, no person proceeding from any place outside India shall enter or attempt to enter India by water, land or air unless he is in possession of a valid passport conforming to the conditions prescribed in Rule 4, thereof. Under Section 4 of the said Act any such person may be arrested by an officer of police not below the prescribed rank; and under Rule 6 of the Rules any person who contravenes the said rules shall be punishable with imprisonment for a term which may extend to 3 months or with a fine or with both. Under Section 5 of the Act the Central Government is authorised by general or special order to direct the removal of any such person from India. The combined



effect of the provisions of the Act and the rules made there under is that the executive instructions given by the Central Government to shipping and airlines companies and the insistence of foreign countries on the possession of a passport before an Indian is permitted to enter those countries make it abundantly clear that possession of passport, whatever may be its meaning or legal effect, is a necessary requisite for leaving India for traveling abroad. The argument that the Act does not impose the taking of a passport as a condition of exit from India, Therefore, it does not interfere with the right of a person to leave India, if we may say so, is rather hypertechnical and ignores the realities of the situation. Apart from the fact that possession of passport is a necessary condition of travel in the international community, the prohibition against entry impliedly indirectly prevents the person from leaving India. The State in fact tells a person living in India "you can leave India at your pleasure without a passport, but you would not be allowed by foreign countries to enter them without it and you cannot also come back to India with- out it." No person in India can possibly travel on those conditions. Indeed it is impossible for him to do so. that Èt apart, even that theoretical possibility of exit is expressly restricted by executive instructions and by refusal of foreign exchange. We have, Therefore, no hesitation to hold that an Indian passport is factually a necessary condition for travel abroad and without it no person residing in India can travel outside India."

15. Similarly the rights of citizens are highlighted in paragraphs 12 and 13 of the judgment which may also be reproduced as under:

"12. The want of a passport in effect prevents a person leaving India. Whether we look at it as a facility given to a person to travel abroad or as a request to a foreign country to give the holder diplomatic protection, it can- not be denied that the Indian Government, by refusing a permit to a person residing in India, completely prevents him from traveling abroad. If a person living in India, whether he is a citizen or not, has a right to travel abroad, the Government by withholding the passport can deprive him of his right. Therefore, the real question in these writ petitions is:





whether a person living in India has a fundamental right to travel abroad?

13. The relevant Article of the Constitution is Article 21. It reads: "Article 21. No person shall be deprived of his life or personal liberty except according to procedure established by law". If the right to travel is a part of the personal liberty of a person he cannot be deprived of his right except according to the procedure established by law. This court in Gopalan's case, MANU/SC/0012/1950 : 1950CriLJ1383 has held that 'law' in that article means enacted law and it is conceded that the State has not made any law depriving or regulating the right of a person to travel abroad."

16. The law is next elucidated by the Hon'ble Apex Court in the case of **Maneka Gandhi Vs. Union of India** reported in **1978 SCR 621**, it has been held in Para 3 as under:

"3. Before we examine the rival arguments urged on behalf of the parties in regard to the various questions arising in this petition, it would be convenient to set out the relevant provisions of the Passports Act, 1967. This Act was enacted on June 24, 1967 in view of the decision of this Court in Satwant Singh Sawhney v. D.Ramarathnam, Assistant Passport Officer, Government of India, New Delhi. The position which obtained prior to the coming into force of this Act was that there was no law regulating the issue of passports for leaving the shores of India and going abroad. The issue of passports was entirely within the discretion of the executive and this discretion was unguided and unchannelled. This Court, by a majority, held that the expression "personal liberty" in Article 21 takes in the right of locomotion and travel abroad and under Article 21 no person can be deprived of his right to go abroad except according to the procedure established by law and since no law had been made by the State regulating or prohibiting the exercise of such right, the refusal of passport was in violation of Article 21 and moreover the discretion with the executive in the matter of issuing or refusing passport being unchannelled and arbitrary, it was plainly violative of Article 14 and hence the order refusing passport to the petitioner was also invalid under that article. This





decision was accepted by Parliament and the infirmity pointed out by it was set right by the enactment of the Passports Act 1967. This Act, as its Preamble shows, was enacted to provide for the issue of passports and travel documents to regulate the departure from India of citizens of India and other persons and for incidental and ancillary matters, Section 3 provides that no person shall depart from or attempt to depart from India unless he holds in this behalf a valid passport or travel document. What are the different classes of passports and travel documents which can be issued under the Act is laid down in Section 4. Section 5, sub-section (1) provides for making of an application for issue of a passport or travel document or for endorsement on such passport or travel document for visiting foreign country or countries and sub-section (2) says that on receipt of such application, the passport authority, after making such inquiry, if any, as it may consider necessary, shall, by order in writing, issue or refuse to issue the passport or travel document or make or refuse to make on the passport or travel document endorsement in respect of one or more of the foreign countries specified in the application. Sub-section (3) requires the passport authority, where it refuses to issue the passport or travel document or to make any endorsement on the passport or travel document, to record in writing a brief statement of its reasons for making such order. Section 6, sub-section (1) lays down the grounds on which the passport authority shall refuse to make an endorsement for visiting any foreign country and provides that on no other ground the endorsement shall be refused. There are four grounds set out in this sub-section and of them, the last is that, in the opinion of the Central Government, the presence of the applicant in such foreign country is not in the public interest. Similarly sub-section (2) of Section 6 specifies the grounds on which alone-and on no other grounds-the passport authority shall refuse to issue passport or travel document for visiting any foreign country and amongst various grounds set out there, the last is that, in the opinion of the Central Government the issue of passport or travel document to the applicant will not be in the public interest. Then we come to Section 10 which is the material section which falls for consideration. Sub-section (1) of that section





empowers the passport authority to vary or cancel the endorsement of a passport or travel document or to vary or cancel the conditions subject to which a passport or travel document has been issued, having regard inter alia, to the provisions of sub-section (1) of section 6 or any notification under Section 19. Sub-section (2) confers powers on the passport authority to vary or cancel the conditions of the passport or travel document on the application of the holder of the passport or travel document and with the previous approval of the Central Government. Sub-section (3) provides that the passport authority may impound or cause to be impounded or revoke a passport or travel document on the grounds set out in clauses (a) to (h). The order impounding the passport in the present case was made by the Central Government under clause (c) which reads as follows: (c) If the passport authority deems it necessary so to do in the interest of the Sovereignty and Integrity of India, the security of India friendly relations of India with any foreign country, or in the interests of the general public; The particular ground relied upon for making the order was that set out in the last part of clause (c), namely, that the Central Government deems it necessary to impound the passport "in the interests of the general public". Then follows sub-section (5) which requires the passport authority impounding or revoking a passport or travel document or varying or cancelling an endorsement made upon it to "record in writing a brief statement of the reasons for making such order and furnish to the holder of the passport or travel document on demand a copy of the same unless, in any case, the passport authority is of the opinion that it will non be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such a copy". It was in virtue of the provision contained in the latter part of this sub-section that the Central Government declined to furnish a copy of the statement of reasons for impounding the passport of the petitioner on the ground that it was not in the interests of the general public to furnish such copy to the petitioner. It is indeed a matter of regret that the Central Government should have taken up this attitude in reply to the request of the petitioner to be supplied a copy of the statement of reasons, because ultimately,





when the petition came to be filed, the Central Government did disclose the reasons in the affidavit in reply to the petition which shows that it was not really contrary to public interest and if we look at the reasons given in the affidavit in reply, it will be clear that no reasonable person could possibly have taken the view that the interests of the general public would be prejudiced by the disclosure of the reasons. This is an instance showing how power conferred on a statutory authority to act in the interests of the general public can sometimes be improperly exercised. If the petitioner had not filed the petition, she would perhaps never have been able to find out what were the reasons for which her passport was impounded and she was deprived of her right to go abroad. The necessity of giving reasons has obviously been introduced in sub-section (5) so that it may act as a healthy check against abuse or misuse of power. If the reasons given are not relevant and there is no nexus between the reasons and the ground on which the passport has been impounded, it would be open to the holder of the passport to challenge the order impounding it in a Court of law and if the court is satisfied that the reasons are extraneous or irrelevant, the Court would strike down the order. This liability to be exposed to judicial scrutiny would by itself act as a safeguard against improper or mala fide exercise of power. The Court would, Therefore, be very slow to accept, without close scrutiny, the claim of the passport authority that it would not be in the interests of the general public to disclose the reasons. The passport authority would have to satisfy the Court by placing proper material that the giving of reasons would be clearly and indubitably against the interests of the general public and if the Court is not so satisfied, the Court may require the passport authority to disclose the reasons, subject to any valid and lawful claim for privilege which may be set up on behalf of the Government. Here in the present case, as we have already pointed out, the Central Government did initially claim that it would be against the interests of the general public to disclose the reasons for impounding the passport, but when it came to filing the affidavit in reply, the Central Government very properly abandoned this unsustainable claim and disclosed the reasons. The question whether these reasons have any nexus with





the interests of the general public or they are extraneous and irrelevant is a matter which we shall examine when we deal with the arguments of the parties. Meanwhile, proceeding further with the resume of the relevant provisions, reference may be made to Section 11 which provides for an appeal inter alia against the order impounding or revoking a passport or travel document under subsection (3) of Section 10. But there is a proviso to this section which says that if the order impounding or revoking a passport or travel document is passed by the Central Government, there shall be no right of appeal. These are the relevant provisions of the Act in the light of which we have to consider the constitutionality of sub-section (3)(c) of Section 10 and the validity of the order impounding the passport of the petitioner."

17. The constitutional requirement of an order passed under Section 10(3)(c) of the Act is further dealt with in paragraph 35 which may be referred to as below:

"35. But that does not mean that an order made under Section 10(3)(c) may not violate Article 19(1)(a) or (g). While discussing the constitutional validity of the impugned order impounding the passport of the petitioner, we shall have occasion to point out that even where a statutory provision empowering an authority to take action is constitutionally valid, action taken under it may offend a fundamental right and in that event, though the statutory provision is valid, the action may be void. Therefore, even though Section 10(3)(c) is valid, the question would always remain whether an order made under it is invalid as contravening a fundamental right. The direct and inevitable effect of an order impounding a passport may, in a given case, be to abridge or take away freedom of speech and expression or the right to carry on a profession and where such is the case, the order would be invalid, unless saved by Article 19(2) or Article 19(6). Take for example, a pilot with international flying licence. International flying is his profession and if his passport is impounded, it would directly interfere with his right to carry on his profession and unless the order can be justified on the ground of public interest under Article 19(6), it would be void as offending Article 19(1)(g). Another example may be taken of an evangelist who



has made it a mission of his life to preach his faith to people all over the world and for that purpose, sets up institutions in different countries. If an order is made impounding his passport, it would directly affect his freedom of speech and expression and the challenge to the validity of the order under Article 19(1)(a) would be unanswerable unless it is saved by Article 19(2). We have taken these two examples only by way of illustration. There may be many such cases where the restriction imposed is apparently only on the right to go abroad but the direct and inevitable consequence is to interfere with the freedom of speech and expression or the right to carry on a profession. A musician may want to go abroad to sing, a dancer to dance, a visiting professor to teach and a scholar to participate in a conference or seminar. If in such, a case his passport is denied or impounded, it would directly interfere with his freedom of speech and expression. If a correspondent of a newspaper is given a foreign assignment and he is refused passport or his passport is impounded, it would be direct interference with his freedom to carry on his profession. Examples can be multiplied, but the point of the matter is that though the right to go abroad is not a fundamental right, the denial of the right to go abroad may, in truth and in effect, restrict freedom of speech and expression or freedom to carry on a profession so as to contravene Article 19(1)(a) or 19(1)(g). In such a case, refusal or impounding of passport would be invalid unless it is justified under Article 19(2) or Article 19(6), as the case may be. Now, passport can be impounded under Section 10(3)(e) if the Passport Authority deems it necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public. The first three categories are the same as those in Article 19(2) and each of them, though separately mentioned, is a species within the broad genus of "interests of the general public". The expression "interests of the general public" is a wide expression which covers within its broad sweep all kinds of interests of the general public including interests of The sovereignty and integrity of India, security of India and friendly relations of India with foreign States. Therefore, when an order is made under Section 10(3)(c), which is in





conformity with the terms of that provision, it would be in the interests of the general public and even if it restricts freedom to carry on a profession, it would be protected by Article 19(6). But if an order made under Section 10(3)(c) restricts freedom of speech and expression, it would not be enough that it is made in the interests of the general public. It must fall within the terms of Article 19(2) in order to earn the protection of that article. If it is made in the interests of the sovereignty and integrity of India or in the interests of the security of India or in the interests of friendly relations of India with any foreign country, it would satisfy the requirement of Article 19(2). But if it is made for any other interests of the general public save the interests of "public order, decency or morality", it would not enjoy the protection of Article 19(2). There can be no doubt that the interests of public order, decency or morality are "interests of the general public" and they would be covered by Section 10(3)(c), but the expression "interests of the general public", is, as already pointed out, a much wider expression and, Therefore, in order that an order made under section 10(3)(c) restricting freedom of speech and expression, may not fall foul of Article 19(1)(a), it is necessary that in relation to such order, the expression "interests of the general public" in Section 10(3)(c) must be read down so as to be limited to interests of public order, decency or morality. If an order made under Section 10(3)(c) restricts freedom of speech and expression, it must be made not in the interests of the general public in a wider sense, but in the interests of public order, decency or morality, apart from the other three categories, namely, interests of the sovereignty and integrity of India, the security of India and friendly relations of India with any foreign country. If the order cannot be shown to have been made in the interests of public order, decency or morality, it would not only contravene Article 19(1)(a), but would also be outside the authority conferred by Section 10(3)(c)."

18. Now the next question remains for consideration of this Court is "whether the respondents can deny the renewal of passport of the petitioner on the ground of adverse police verification?" The passport can be denied only on the grounds



mentioned in Section 6 of the Passport Act, 1967 (for short "the Act of 1967"). Section 5 of the Act of 1967 deals with the issuance of passport and hard documents etc. It reads as follows:-

"5. Applications for passports, travel documents, etc., and orders thereon.-

(1) An application for the issue of a passport under this Act for visiting such foreign country or countries (not being a named foreign country) as may be specified in the application may be made to the passport authority and shall be accompanied by 2 [Such fee as may be prescribed to meet the expenses incurred on special security paper, printing, lamination and other connected miscellaneous services in issuing passports and other travel documents].

(1A) An application for the issue of-

(i) a passport under this Act for visiting a named foreign country; or

(ii) a travel document under this Act, for visiting such foreign country or countries (including a named foreign country) as may be specified in the application or for an endorsement on the passport or travel document referred to in this section, may be made to the passport authority and shall be accompanied by such fee (if any) not exceeding rupees fifty, as may be prescribed.

(1B) Every application under this section shall be in such form and contain such particulars as may be prescribed.

(2) On receipt of an application 3 [under this section], the passport authority, after making such inquiry, if any. as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing,-





(a) issue the passport or travel documents with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign country or countries specified in the application; or
(b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign countries specified in the application and refuse to make an endorsement in respect of the other country or countries; or
(c) refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement.

(3) Where the passport authority makes an order under clause (b) or clause (c) of sub-section (2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such copy."

Similarly, Section 6 of the Act of 1967 deals with the provision of refusal of passports and travel documents, which reads as follows:

"6. Refusal of passports, travel documents.

Etc.-(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5





on any one or more of the following grounds, and no other ground, namely: -

- (a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;
- (b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;
- (c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country,
- (d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: -

- (a) that the applicant is not a citizen of India.,
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India.,
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;
- (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;
- (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;
- (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an



order prohibiting the departure from India of the applicant has been made by any such court;
(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;
(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.”



19. From the bare reading of the above Sections, it would transpire that on receipt of the application, the Passport Authority is empowered to make such inquiry which they may consider necessary before issuance of a Passport. It is because of such power of making inquiry, the Passport Officer is entitled to seek Police verification report with regard to the antecedents of the person who has applied for the issuance of a Passport. The purpose of such inquiry by the Passport Authority is to enable themselves to make up their mind as to whether the Passport or travel documents should be issued or refused, in the circumstances of each particular case. In any case, the decision over the issue of a Passport or travel documents has to be taken by the Passport Authority alone and for taking such decision they may keep the inquiry report in view. Merely because the inquiry report received is adverse, the Passport Authority cannot differ from their own decision on issuance of Passport, nor they can refuse the same without applying mind to the facts stated in the report.

20. Adverse Police Verification report per se does not dis-entitle a citizen from his legal right to have a passport. It is for the Passport Authority to take into consideration the facts/antecedents of the person, who has applied for issuance of a Passport, alleged



in the verification report, for deciding whether passport should be issued to him or refused. The passport authority is not bound by the adverse police verification report.

21. There is no material available on the record to show that on what basis an adverse police verification was submitted with regard to the fact that whether the petitioner is an Indian National or not.

22. The impugned action of the respondents, cannot be allowed to sustain and the same is liable to be set-aside. It is, however, open for the respondents to proceed against the petitioner if anything is found adverse against her after following the due procedure, as permissible in law.

23. In view of the above, the writ petition stands disposed of. The respondents are directed to dispose of the application for renewing the passport of the petitioner forthwith, without any further delay preferably within a period of eight weeks.

24 All applications (pending, if any) also stand disposed of.

25. There shall be no order as to costs.

(ANOOP KUMAR DHAND),J

Karan/45