



**IN THE HIGH COURT OF MADHYA PRADESH**

**AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 7<sup>th</sup> OF NOVEMBER, 2024**

**WRIT PETITION No. 10503 of 2023**

***FARZANA BANO***

*Versus*

***UNION OF INDIA AND OTHERS***

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**Appearance:**

*Shri Mohd. Sohail Chhipa – Advocate for petitioner.*

*Shri Himanshu Joshi – A.S.G. for respondent Nos.1 and 2/Union of India.*

*Ms. Mradula Sen – G.A./P.L. for respondent No.3/State.*

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**WITH**

**WRIT PETITION No. 10504 of 2023**

***MOHD WAZIB CHHIPA***

*Versus*

***UNION OF INDIA AND OTHERS***

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**Appearance:**

*Shri Mohd. Sohail Chhipa – Advocate for petitioner.*

*Shri Himanshu Joshi – A.S.G. for respondent Nos.1 and 2/Union of India.*

*Ms. Mradula Sen – G.A./P.L. for respondent No.3/State.*

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**ORDER**



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- 1] Heard finally, with the consent of the parties.
- 2] This order shall also govern the disposal of W.P. No.10504 of 2023, as both the petitions involve identical issues. Both the petitioners are also closely related, as the petitioner Mohd. Wazib Chhipa in W.P. No.10504 of 2023 happens to be the son of petitioner Farzana Bano in W.P. No.10503 of 2023, and it is alleged that the passport of petitioner Mohd. Wazib Chhipa has been rejected on the ground that his father – Mohd. Shahid Chhipa and grandfather have criminal antecedents, and petitioner Farzana Bano has been denied the passport because her husband Mohd. Shahid Chhipa and her father-in-law have criminal antecedents.
- 3] For sake of convenience, the facts as narrated in W.P No.10503 of 2023 are being taken into consideration.
- 4] This writ petition has been filed by the petitioner Farzana Bano, under Article 226 of the Constitution of India seeking the following reliefs:-

“a) Pass an Order by issuing the Writ of Mandamus, directing the respondents to issue Passport to the Petitioner, by processing the File no. BP2066395151022, dated 02.05.2022, in the light of the Order dated 29.04.2022 passed by this Hon’ble Court in WP/10154/21 and by setting aside the impugned letter dated 17.11.2022 issued by respondent no. 2.

b) Pass an order imposing exemplary cost upon the respondent no.3 (police authorities) who gave adverse police verification report against the petitioner and made the representation for non-issuance of passport to the petitioner despite no criminal case is against the petitioner.

c) Pass an Order Imposing exemplary cost of Rs. 1 Lakh each on the Respondents to be deposited with the State Legal Services Authority, Indore for harassing the petitioner as well as for wasting the precious time of the judiciary.;

d) Grant compensation to the Petitioner to the tune of Rs. 10 Lakhs for the pain and suffering endured by him solely caused to him due to arbitrary actions of the Respondents.

e) Pass any other order(s) which this Hon'ble Court deems fit and proper.”



5] The grievance of the petitioner is that despite being entitled to obtain a passport to travel abroad, the respondents have rejected her application on extraneous reasons, despite being a specific order passed by this Court in W.P. No.10154 of 2021 dated 29.04.2022.

6] In brief, the facts of the case are that the petitioner is a resident of Mandsaur, and desires to travel abroad hence, applied for issuance of passport in the year 2021. The said application was rejected by the Regional Passport Authority on the ground that her husband and father-in-law are the offenders in Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the N.D.P.S. Act') and other offences, and her father-in-law is still absconding in many cases, hence, since she has a criminal family background, she is not recommended for issuance of passport. The earlier rejection of her passport was also the subject matter of W.P. No.10154 of 2021, which was decided by the Co-ordinate Bench of this Court on 29.04.2022, with a direction to the respondents to decide the petitioner's application afresh without taking into account the grounds of earlier rejection. However, respondents have again communicated to the petitioner through the impugned order dated 17.11.2022, that she cannot be issued the passport on account of the pre police verification, which is non-recommendatory, as issued by the Office of the Superintendent of Police, Mandsaur with adverse status.



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7] Counsel for the petitioner has submitted that despite there being a specific order passed by this Court in W.P. No.10154 of 2021, the respondents have again passed the same order and in such circumstances, the impugned order deserves to be quashed and the respondents may be directed to issue the passport to the petitioner.

8] A reply to the petition has also been filed by the respondent No.2 Regional Passport Office. Shri Himanshu Joshi – learned Additional Solicitor General has submitted that on account of the criminal background of the petitioner, as her husband and father-in-law have indulged in cases relating to Narcotic drugs, she is also denied the facility of passport. However, it is not denied that there are no criminal cases registered against the petitioner. Counsel has also produced the Police Verification Report (PVR) remarks sent to the concerned Passport Officer by the S.P. Office, Mandasaur.

9] Counsel for the State has also opposed the prayer, however, no return to the petition has been filed.

10] Heard, the counsel for the parties and perused the record.

11] Having considered the rival submissions and on perusal of the record, it is found that so far as the petitioner's adverse remarks are concerned, the relevant excerpts read as under:-

“PVR REMARKS  
POLICE REMARKS

.....  
PASSPORT OFFICE REMARKS

"The case of NDPS has been set up against the husband of the applicant in the Narcotics Department, Neemuch, and the father-in-law of the applicant has been involved in drug smuggling and many cases of NDPS and assault are



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going on in the police station Kotwali of the applicant. Surveillance is crook and is absconding in many cases, applicant's family background being”

**12]** It is apparent that the adverse remarks against the petitioner are that her husband and father-in-law had indulged in drug smuggling cases as also the assault cases, whereas, this Court, in W.P. No.10154 of 2021, while disposing of the same, has passed the following order:-

“1. By this petition the petitioner has prayed for a direction to the respondents to issue passport in her favour.

2. During course of the arguments learned counsel for the parties arrived at a consensus that in case the petitioner makes a fresh application for issuance of the passport, then the same shall be considered afresh and shall be decided in an expeditious manner and the proceedings initiated on the earlier application and the report which the petitioner contends to be adverse to her shall not be taken into consideration in the fresh proceedings.

3. In view of the consensus arrived at between the parties this petition is disposed off with a direction to the petitioner to make a fresh application before respondent No.2 along with full requisite particulars and the necessary documents within a period of 15 days from today. In case such an application is made by the petitioner, then the same shall be processed and decided finally within a period of one month from the date of filing of the same. It is also made clear that the proceedings in the earlier application made by the petitioner shall not be taken into consideration while deciding the fresh application.

4. With the aforesaid, without expressing any opinion on merits, instant petition stands disposed off.”

(Emphasis supplied)

**13]** It is apparent from the aforesaid order that the respondents were specifically directed not to consider the grounds, on the basis of which, the earlier application of the petitioner was rejected, and, admittedly, the earlier application was rejected on the same ground as aforesaid. It is apparent that the respondents have not cared to comply with the order passed by this Court in W.P. No.10154 of 2021 in its true letter and spirit, and have passed the order in a cavalier manner.

**14]** Be that as it may, the impugned order cannot be sustained in the eyes of law as the petitioner also enjoys all the fundamental



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rights as any other citizen of this Country, and the criminal antecedents of her husband and father-in-law cannot be taken into account to assess her character and her application for issuance of passport, as the respondents are required to pass the order only on the basis of the petitioner's character verification, and not that of her husband or father-in-law's criminal antecedents.

**15]** Accordingly, the petition stands allowed and the impugned order 17.11.2022 is hereby set aside, with a direction to the respondents to re-assess the petitioner's case within four weeks time and pass the appropriate order in accordance with law, and if the petitioner is found to be entitled to obtain the passport, the same shall also be issued to her without further delay.

**16]** Let the aforesaid exercise be completed positively within a further period of six weeks from today.

**17]** With the aforesaid, both the petitions stand *allowed* and *disposed of*.

**18]** Let a copy of this order be kept in the record of W.P. No.10504 of 2023.

**(SUBODH ABHYANKAR)**  
**JUDGE**

Pankaj

