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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 3rd March, 2023

+ **W.P.(C) 2730/2023**

MEHBOOBA MUFTI

..... Petitioner

Through: Mr. Prashanto Chandra Sen, Sr.
Advocate with Mr. Prasanna S., Ms.
Abhishri, Ms. Swati Arya & Mr.
Yuvraj Singh Rathore, Advocates (M-
9999942982)

versus

JOINT SECRETARY (PSP) AND CHIEF PASSPORT
OFFICER

..... Respondent

Through: Mr. Kirtiman Singh, CGSC with Ms.
Vidhi Jain, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner seeking early decision in her appeal under Section 11 of the Passports Act, 1967 against the Order dated 26th March 2021 of the Passport Office, Srinagar. The application for issuance of passport of the Petitioner had been refused on 26th March, 2021 and thereafter, some proceedings took place before the Jammu & Kashmir High Court. The prayers sought in the petition are as under:

“a. Issue an appropriate writ, order or direction in the nature of Mandamus directing the Respondent No.1 to expeditiously decide Appeal of Petitioner made under Sec. 11 of the Passport Act, 1967 against the decision of Regional Passport Office dt. 26.03.2021, and in any case within one (1)

month from the date of the Order;

b. Pass other or further such order or direction as this Hon'ble Court deems fit in the facts and circumstances of this case."

3. The Petitioner was the holder of Passport No. D-1101987 which is stated to have been valid till 3rd May, 2019. An application was filed by the Petitioner seeking a fresh passport before the Regional Passport Office, J&K on 11th December, 2020. Since the passport had not been issued, the Petitioner filed the *W.P.(C) 382/2021* titled '*Mehbooba Mufti v. Union of India & Ors*' before the J&K High Court. During the pendency of the said writ, an order was passed by the RPO, Sri Nagar stating that the case of the Petitioner was "**NOT RECOMMENDED PASSPORT CASE**" as per the Police Verification Report(PVR) received from the Addl. Director General of Police, J&K CID vide No. CID/Final/21/017558-017559 dated 18th March 2021. In the light of this order, the writ petition came to be dismissed vide Order dated 29th March 2021 permitting the Petitioner to avail of her remedies under the Passports Act by way of an appeal. The operative portion of the said Order reads as-

"08.In the above background, I do not find any reason to interfere with the course of action adopted by the respondents in this case, as a sequel thereto, the petition of the petitioner is hereby dismissed, along with the connected CM(s). Interim direction(s), if any subsisting as on date, shall stand vacated. It is however made clear here that dismissal of the Writ petition shall not come in the way of the petitioner for availing the remedy as may be available to her in accordance with the law."

4. The said order came to be challenged by the Petitioner before the Id.

Division Bench in *LPA No. 50/2021 Mehbooba Mufti Vs. UOI and another* which was also disposed of vide Order dated 9th April 2021, in the following terms:

*“10. In view of the stand taken by learned counsel for the parties and with their consensus, this appeal is, **disposed of**, by providing liberty to the appellant to approach the appropriate authority to avail the proper remedy available to her under the Scheme. On receipt of the appeal, the authority concerned shall consider and decide the same on its merits, strictly under rules, regulations and the provisions of the Act, that too un-influenced by the observations made in the judgment impugned dated 29th of March, 2021. Needless to state that this Court has not expressed any opinion on the merits of the case.”*

5. The appeal was to be decided on merits by the authority under the Passports Act. However, since the appeal has not yet been disposed of and almost two years have lapsed since the order of the Id. Division Bench of the J&K High Court, the present writ petition has been preferred by the Petitioner seeking early disposal of the appeal.

6. Today, appearing on advance notice, Mr. Kirtiman Singh, Id. CGSC submits that order dated 2nd March, 2023 has been passed by the Joint Secretary (PSP) & Chief Passport Officer setting aside the order dated 26th March, 2021 and remanding the matter to the Passport office for re-examination. A copy of the said order has been handed over to Id. Senior Counsel for the Petitioner. The operative portion of the said order reads as under:

“11. And now, therefore, having gone through all the records and in the light of the full facts and circumstances of the case, I, as the Appellate Authority, as per the provisions u/s 11 of the Passports Act, 1967, decide the appeal ex-parte as under:

(i) Appellant applied for Ordinary passport under ‘fresh’ category’ at Passport Office, Srinagar, vide application no. SG1065057682420 dated 11.12.2022, which was granted in ‘Pre-PV’ mode and the report was sought from concerned authority.

(ii) The nodal agency of J&K for granting clearance in passport matters, did not recommend the issuance of passport to the appellant and returned the PVR as “not recommended passport case due to security reasons”

(iii) It is evident that PO, vide order dated 26.03.2021, refused the appellant’s passport application just by mentioning the section of Passports Act, 1967 and non recommending comment of CID report. PO did not record the reasons to arrive at this decision and refused the appellant’s passport application.

(iv) In view of above, impugned order dated 26.03.2021 is set aside and PO is directed to re-examine the case and take an informed decision in view of the CID report and provisions of Passport Act, 1967 and thereafter, pass a reasoned and speaking order on the appellant’s passport application.

(v) Appeal is disposed of with above directions.”

7. A perusal of the above communication would show that the appeal has now been disposed of with the direction to the Passport Office to re-

examine the case. The initial order by which the passport was rejected, has been set aside by the Appellate Authority.

8. In view of the fact that the appeal now stands disposed of by the Appellate Authority under the Passports Act, vide order dated 2nd March, 2023, the prayer in the writ petition has in effect been satisfied. However, considering that the matter has been remanded to the Passport officials and the initial rejection was almost two years ago, let the concerned Passport office take a decision expeditiously and in any case, within a period of three months.

9. The petition is accordingly infructuous and is disposed of. No further orders are called for.

PRATHIBA M. SINGH, J.

MARCH 3, 2023

Rahul/RP

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