

Before S. S. Sodhi & N. C. Jain, JJ.

HARMEET JAWANDHA AND ANOTHER,—*Petitioners.*

versus

UNION OF INDIA AND ANOTHER,—*Respondents.*

Civil Writ Petition No. 160 of 1991.

31st January, 1991.

Passport Act, 1967—Passport Rules, 1960—Rl. 3, Sch. 1, Entry 4(a)—Application for issuance of passport—Application made to Regional Passport Officer, Chandigarh—Applicant ordinarily residing at Chandigarh but studying in Boarding School at Dehradun—Regional Passport Officer, Chandigarh has exclusive jurisdiction to issue passport—Mere fact that applicant studies in another jurisdiction will not make him ordinarily resident there—Words, ‘Ordinarily residing’ as used in rl. 3(2)—Meaning of—Stated.

Held, that where the persons applying for passport and their parents are permanent residents of Chandigarh, the mere fact that they have been sent away to study in a boarding school within another jurisdiction cannot render them as being persons’ ordinarily residing’ in another jurisdiction.

(Para 3)

Held, that a plain reading of rl. 3 and entry 4(a) of Schedule 1 of the Passport Rules leaves no manner of doubt that in the present case, the Regional Passport Officer, Chandigarh had exclusive jurisdiction in the matter of issuance of passports to the petitioners as they were ‘ordinarily residing’ in Chandigarh.

(Para 4)

Petition under Article 226/227 of the Constitution of India, Praying that this Hon’ble Court may be pleased to:—

- (1) (a) issue a writ of mandamus or any other suitable writ, order or direction to the respondents to entertain the second set of applications dated 11th July, 1990 for issuance of passports.
- (b) issue a writ of mandamus directing the respondent No. 2 to issue the passport to the petitioner from Chandigarh;
- (2) (a) issue any other writ, order or direction, which this Hon’ble Court may deem fit and proper in the circumstances of the case;
- (b) dispense with the filing of certified copies of annexures;
- (c) dispense with the requirement of advance notice to the respondents;

(d) award the cost of this petition to the petitioner.

H. S. Bedi, Sr. Advocate, with Nirmaljit Kaur, Advocate, for the Petitioners.

Ashok Singh Chaudhry Advocate, for the Respondents.

JUDGMENT

S. S. Sodhi, J.

(1) The matter here concerns the issuance of a passport to the minor petitioners—Harmeet Jowanda and Jasmeet Jowanda—and it provides a classic illustration of a closed mind causing wholly unwarranted harassment and delay by the manner in which the authorities concerned have dealt with it.

(2) The petitioners—Harmeet Jowanda and Jasmeet Jowanda—also their parents are permanent residents of Chandigarh. It was as far back as July 22, 1988 that the petitioners applied to the Regional Passport Officer, Chandigarh, for the issuance of passports to them. Their applications were forwarded by the Regional Passport Officer, Chandigarh to his counter part in Bareilly, on the ground that they were residents of Dehra Dun. What presumably let the Regional Passport Officer, Chandigarh to assume so was the fact that they were studying in a boarding school at Dehra Dun, namely; Welhem Girls School, Dera Dun.

(3) A reference to the relevant provisions of the Passport Act, 1967 and the rules framed thereunder would show that the jurisdiction of the Regional Passport Officer to issue passports extends to applications made by persons ordinarily residing in the territories over which he has jurisdiction. In a case like the present, where the petitioners and their parents are permanent residents of Chandigarh, the mere fact that they have been sent away to study in a boarding school, within another jurisdiction, cannot render them as being persons 'ordinarily residing' in that other jurisdiction. It would be pertinent to reproduce here the provisions of rule-3 of the passport Rules. They read as under :—

“Passport Authorities.—(1) In addition to the Central Government, the officers specified in column (2) of Schedule 1 shall, subject to the provisions of sub-rule (2), be the passport authorities for all purposes of the Act and these Rules.

(2) An officer referred to in column (2) of Schedule 1 shall, for the purpose of issue of a passport or travel document,

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exercise jurisdiction in respect of applications for such issue made by persons ordinarily residing in the territories specified in the corresponding entries column-3 of the said Schedule:

Provided that in exceptional and urgent cases the said officer may entertain an application for the issue of a passport or travel document from a person ordinarily residing in any other territory in India and may issue a passport or travel document to such person for a period not exceeding twelve months and transfer the application to the passport authority having jurisdiction in the territory where-in such person ordinarily resides:

Provided further that no such transfer of application for passport under the preceding proviso shall be made if the applicant has migrated from the territory where he was originally resident with the intention of settling down in the territory within the jurisdiction of the passport authority which issued the passport under the preceding proviso”.

Next to note is entry 4(a) of Schedule-I of the said Rules, which is in these terms.

13. “Regional Passport Officer, Chandigarh (Regional Passport Officer, Chandigarh) The State of Punjab (excluding the districts of Jullundur, Kapurthala, Hoshiarpur, Amritsar and Gurdaspur), and the States of Haryana and Himachal Pradesh and the Union Territory of Chandigarh”.

(4) A plain reading of rule-3 and entry 4(a) of Schedule-I of the Rules leaves no manner of doubt that in the present case, the Regional Passport Officer, Chandigarh had exclusive jurisdiction in the matter of issuance of passports to the petitioners as they were ‘ordinarily residing’ in Chandigarh.

(5) It is indeed unfortunate that such a plain and clear provision of the Act and Rules was not understood, rather disregarded by the

Regional Passport Officer, Chandigarh in transferring the case of the petitioners to Bareilly. This cannot, but invite adverse comment.

(6) The Regional Passport Officer, Chandigarh is accordingly hereby directed to process and deal with the applications of the petitioners for passports at Chandigarh and keeping in view the inordinate delay that has already taken place, it is further directed that passports be issued to them within a fortnight from today.

(7) The writ petition is accordingly hereby accepted and keeping in view the circumstances, as narrated, we also impose Rs. 1,500 as costs upon the respondents.

R.N.R.

Before G. R. Majithia, J.

MAJOR SINGH BRAR AND ANOTHER,—*Petitioners.*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ Petition No. 8182 of 1989.

15th November, 1989.

Constitution of India, 1950—Arts. 226/227—Principles of natural justice—Quasi Judicial Authority allowing respondent to file written arguments—Arguments heard in absence of petitioner's counsel—Illegal & violative of rules of natural justice—Petitioner must be given an opportunity to meet those arguments.

Held, that it was just and fair that after the written arguments had been placed on record, the counsel for the petitioners was given an opportunity to meet those arguments. It is illegal to permit a party to file written arguments to be placed on record in the absence of the other party's counsel and is violative of the principles of natural justice. (Para 9)

Held, that quasi judicial authority, while exercising its powers, must do so in accordance with the principles of natural justice. He must hear both sides at one time and must not hear one side in the absence of the other and a person who is fasten with a liability should