



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CM-9575-CWP-2025 in/and
CWP-8023-2025 (O&M)
Date of decision : 01.10.2025

Royalpreet Singh Sandhu (Minor) Through his Mother ...Petitioner

Versus

Union of India and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Balwinder Singh, Advocate
for the petitioner.

Mr. Satya Pal Jain, Addl. Solicitor General of India assisted by
Mr. Amit Sharma, Senior Panel Counsel
for the respondents.

HARSH BUNGER, J.

CM-9575-CWP-2025

This is an application filed under Section 151 of the Code of Civil Procedure for placing on record the copy of Nationality Certificate dated 08.09.2023, Identity Card dated 19.09.2023 issued by Italian Government in favour of father of the petitioner as Annexures P-14 and P-15, respectively, print out taken from Indian Embassy as Annexure P-16 and photocopy of cancelled passport of father of the petitioner as Annexure P-17.

For the reasons mentioned in the application, the same is allowed and Annexures P-14 to P-17 are taken on record, subject to all just exceptions.

Application stands disposed of accordingly.



CWP-8023-2025 (O&M)

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for setting aside the impugned letter dated 17.02.2025 (Annexure-P-10) issued by respondent No.2-Regional Passport Officer Chandigarh, whereby objection has been raised to the re-issuance of the petitioner's passport on the ground that he is not a citizen of India.

1.1 A further prayer has been made for issuance of writ in the nature of mandamus directing the respondents to remove the travel embargo on the petitioner and further to reissue/ renew the passport of the petitioner.

2. Brief facts, as pleaded, are that the petitioner, Royalpreet Singh Sandhu, was born on 03.02.2008 at Banoor, Punjab, to Sh. Avtar Singh Sandhu and Smt. Varinder Kaur, both of whom were Indian citizens at the time of his birth, as duly reflected in their passports and other documents.

3. The petitioner completed his matriculation in May 2024 (Annexure P-4 – Matriculation Certificate issued by the Central Board of Secondary Education). In the meantime, his father, Avtar Singh Sandhu, acquired Italian citizenship and, on 14.03.2024, formally renounced his Indian citizenship in terms of Renunciation Certificate (Annexure P-7). The petitioner's mother, however, continues to be an Indian citizen and holds a valid Indian passport.

4. In the same year, on 19.02.2024, the petitioner was issued an Indian passport bearing No. X3669269, valid until 18.02.2034 (Annexure P-6). Thereafter, having passed matriculation, the petitioner became eligible



for deletion of the ECR endorsement. Accordingly, on 06.01.2025, he applied for deletion of the ECR category, enclosing all requisite documents including parental consent affidavits (Annexure P-8 and P-9).

5. In continuation thereof, the petitioner, along with his mother, also submitted a declaration dated 22.01.2025 (Annexure P-9A) before respondent No.2 affirming that the petitioner is an Indian citizen and holds no foreign passport.

6. While the said application was pending, the Passport Office, taking note of the father's renunciation of Indian citizenship, issued the impugned letter dated 17.02.2025 (Annexure P-10), questioning the petitioner's Indian citizenship and requiring him to submit a custody order.

7. Learned counsel for the petitioner submits that the objection is wholly misconceived. It is urged that the petitioner, having been born in India in 2008 to Indian parents, is a citizen of India by birth under Section 3 of the Citizenship Act, 1955. The subsequent renunciation of citizenship by the father cannot deprive the petitioner of Indian citizenship. It is further argued that there is no matrimonial discord between the parents, and the mother, who continues to be an Indian citizen, is the natural guardian of the minor. Counsel further relies upon the judgments of the Hon'ble Supreme Court in *Union of India v. Pranav Srinivasan (2024)*, and of the Bombay High Court in *Chrisella Valanka Kushi Raj Naidu v. Union of India (2024)*, to contend that children retain their Indian citizenship irrespective of one parent's change of nationality.

8. On the other hand, learned counsel for the respondents contends that the passport application of the petitioner was rightly kept under scrutiny as the petitioner's father had voluntarily renounced his



Indian citizenship under Section 8 of the Citizenship Act, 1955. It was argued that in such a scenario, where one parent renounces citizenship while the other remains an Indian citizen, the applicable office memorandum dated 31.07.2024 mandates the submission of a court order proving the legal custody of the minor child with the Indian parent to determine the child's citizenship status. The counsel emphasized that the petitioner had failed to provide this essential custody document despite being issued a show-cause notice, and clarified that the present case was distinct from those involving termination of citizenship under Section 9 of the Act, where such a custody certificate is not required. Therefore, the respondents prayed for the dismissal of the writ petition as the petitioner had not fulfilled a mandatory legal condition for the issuance of a passport.

9. I have heard learned counsel for the parties and carefully examined the record.

10. Here it would be apposite to refer to Section 3 of the Citizenship Act which reads 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, shall be a citizen of India by 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.

10.1 When the case of petitioner is considered in the light of Section 3 *ibid*, it would emerge that concededly, the petitioner was born in India in 2008 to parents who were Indian citizens on that date. Section 3 of the Citizenship Act, 1955, clearly provides that every person born in India on or after 26.01.1950 but before 01.07.1987 is a citizen of India by birth. Even after the 1986 and 2003 amendments, a child born in India would be a citizen of India by birth, if either parent was a citizen at the time of birth of such child. In my opinion, the petitioner's case is fully covered, as both his parents were citizens of India when he was born.

11. I am also of the considered view that the subsequent act of the father in renouncing Indian citizenship in 2024 does not, in law, alter the citizenship of the petitioner, who had already acquired it by birth. It is a settled principle of law that a minor child cannot be rendered stateless because of circumstances beyond his control or on account of the unilateral actions of one parent. Citizenship is not a matter of choice for a child, but a legal status conferred by statute at birth. Once the petitioner, having been born in India to parents who were Indian citizens at the time of his birth, acquired citizenship by operation of Section 3 of the Citizenship Act, 1955,



that status could not be divested merely because the father subsequently renounced his Indian citizenship. To hold otherwise would mean that the fundamental rights of the child, including the right to identity and the right to live with dignity under Article 21 of the Constitution, would stand compromised solely on the basis of an act of one parent, which the child has no power to control.

12. The Hon'ble Division Bench of High Court of Himachal Pradesh, while dealing with somewhat similar issue in CWP-4472-2023 titled as ***"Gokul vs. Union of India and another"***, passed an interim order dated 13.07.2023, the relevant extract of which reads as under:-

"Learned Deputy Solicitor General of India states that the mother of the petitioner ceased to hold Indian citizenship and therefore under Section 8(2) of the Citizenship Act, 1955, the petitioner automatically ceased to be a citizen of India.

Section 8(2) of the Citizenship Act, 1955, states as under:-

"8(2). Where [a person] ceases to be a citizen of India under sub-section (1) every minor child of that person shall thereupon cease to be a citizen of India:

Provided that any such child may, within one year after attaining full age, make a declaration [in the prescribed form and manner] that he wishes to resume Indian Citizenship and shall thereupon again become a citizen of India."

A reading thereof indicates that if a person ceases to be a citizen of India under sub-section (1), his/her child thereafter ceases to be a citizen of India.

Admittedly, in the present case, the petitioner has two parents. Only one of whom is alleged to have given up her citizenship. If the other parent continues to be a citizen of India, we fail to understand as to how the provisions of Section



8(2) of the Act ibid can be invoked, depriving the petitioner to be an Indian citizen, to which he is entitled by his birth under Section 3 of the Citizenship Act, 1955. We are also of the opinion that such depriving of passport could not have been done without complying with the principles of natural justice. Therefore, pending further orders, the 2nd respondent is directed to forthwith return the passport of the petitioner.”

12.1 The aforesaid interim order was subsequently confirmed upon compliance by the respondents, leading to the disposal of petition vide order dated 23.08.2023.

13. That apart, the insistence on a custody certificate in such circumstances is equally misplaced. Where both parents are alive and there is no divorce, separation, or custody dispute, the mother, who continues to be an Indian citizen, is a natural guardian under law and is competent to represent the minor in all legal and official matters. The mother's consent suffices for all official purposes, including passport applications. To demand a custody order in such a case imposes an artificial barrier, which has no basis in law, and would only serve to deny the child his rightful status as a citizen. The objection of the respondents, therefore, cannot be sustained.

14. In the above circumstances, this Court is of the considered view that the petitioner is entitled to issuance of an Indian passport. At the same time, since the petitioner is a minor, it is appropriate that the passport be issued with validity co-extensive with his minority. Upon attaining the age of majority, the petitioner shall be required to apply afresh for re-issuance or renewal of passport, at which stage his citizenship status and other documents may be examined in accordance with law.



15. Accordingly, the writ petition is partly allowed. The impugned communication dated 17.02.2025 is quashed. The respondents are directed to process the petitioner's application and issue an Indian passport in his favour within a period of four weeks from receipt of a certified copy of this order. The passport so issued shall remain valid until the petitioner attains majority, subject to fulfillment of other statutory requirements. Upon attaining majority, the petitioner shall move a fresh application for renewal/re-issuance, to be considered on its own merits in accordance with law.

16. The petition stands disposed of in the above terms.

17. All pending application/s, if any, shall also stand closed.

01.10.2025

Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No