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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11173/2023 & CM APPL. 43433/2023**

ANAHITA CHAUDHARY

..... Petitioner

Through: Ms. Arundhati Katju, Mr. Govind Manoharan, Ms. Shristi Borthakur, Ms. Ritika, Ms. Samiksha Godiyal and Mr. Nishchaiy Sharma, Advocates.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Farman Ali, SPC with Ms. Usha Jamnal and Mr. Krishan Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

07.11.2023

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1. The Petitioner has approached this Court re-issuance of a passport. Even though the passport has been issued and the matter has become infructuous, this Court had directed the learned Counsel for the Respondent to evolve a policy by which persons who undergo operations for change of sex outside the country are able to get a fresh passport in their new identity without facing difficulties.

2. Apropos to the directions of this Court, learned Counsel for the Respondent has produced in this Court two letters dated 04.10.2023, one from the Deputy Secretary (Immigration), and the second from the Ministry of External Affairs. Let a copy of the two letters be shared with the learned



Counsel for the Petitioner, who is assisting this Court in the matter. The relevant portion of the said two letters read as under:-

“Sub: WP (C)-11173/2023 - Anahita Chaudhary Vs. UOI and others before High Court of Delhi.

The undersigned is directed to refer to MEA's Office Memorandum No. VI/401/01/02/2022 dated 14/09/2023 on the above cited subject and to say that the matter has been examined in consultation with the field agency. Accordingly, this Ministry is in agreement with the comments presented by MEA, before the Central Government Standing Counsel. Further, since the biometrics are not liable to change after undergoing such medical procedures, a mechanism/policy may be developed by MEA, as the biometric records (of Indian Citizens) are available with MEA/RPO, to verify their identity before issuance of new passports. A letter from the concerned embassy addressed to BOI, to facilitate immigration clearance in such cases, is also required to avoid any confusion at the Immigration Check Posts.

2. Ministry of External Affairs is requested to take further action in the matter”

“Reference trailing mail and our earlier instructions /information vide email dated 14.09.2023 on the captioned subject.

2. Since the comments from MHA has now been received, you are further informed that:

(i) BOI (MHA) is in agreement with the comments presented by MEA that if a person travels abroad for undergoing an operation for change in sex and due to



that operation there is change in name, sex as well as appearance of that person and the details in the old passport does not match with the said changes, then such person may apply for the re-issuance of passport at concerned Indian Mission /Post abroad as per the prescribed procedure for change in gender, name and appearance. And that afresh passport may be issued to such person upon furnishing prescribed documents and receipt of clear police report".

(ii) BOI (MHA) has further suggested that since the biometrics are not liable to change after undergoing such medical procedures / operations, a mechanism/policy may be developed by MEA, to verify their identity before issuance of new passports. A letter from the concerned embassy addressed to BOI, to facilitate immigration clearance in such cases, is also required to avoid any confusion at the ICPs. However, since the suggestion pertains to developing a new mechanism/policy, this Ministry needs time to thoroughly examine the same with different stake holders including technical feasibility.

(3) You are requested to represent the case in view of the above information/instructions."

3. List on 19.12.2023, to await further progress in the matter.

SUBRAMONIUM PRASAD, J

NOVEMBER 7, 2023

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