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APHC010047812026



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3207]

FRIDAY, THE FIRST DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

WRIT PETITION NO: 2768/2026

Between:

1. SHAIK SHABANA, W/O. MULLA SUHEL, D/O. MASTHAN SAHEB, MUSLIM, AGED ABOUT 33 YEARS, R/O. 3-222, SARVEPALLI CROSS ROAD, VENKATACHALA SATRAM MANDAL, SPSR NELLORE DISTRICT 524320.

...PETITIONER

AND

1. THE UNION OF INDIA, REP. BY ITS PRINCIPAL SECRETARY, MINISTRY OF EXTERNAL AFFAIR, SOUTH BLOCK, SECRETARIAT, RAISINA HILL, NEW DELHI, INDIA 110001.
2. THE REGIONAL PASSPORT OFFICER, REGIONAL PASSPORT OFFICE 4TH FLOOR STALIN CENTRAL D NO 2737156 GOVERNMENT MG ROAD VIJAYAWADA 520002.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondents herein in not processing and issuing the passport of the minor daughter of the petitioner by name Ayra Mulla vide Application Reference No. 25- 1060089857 and orally insisting the petitioner to produce either the Divorce / Judicial Separation Proceedings from her husband or orders from the Hon'ble court, in spite of petitioner specifying in the application that she is a single mother as illegal, arbitrary opposed to the established principles of law and the same is in violation of fundamental rights of the petitioner guaranteed under Article 19

and 21 of the Constitution of India and consequently direct the respondents herein to process the application vide Application Reference No. 25-1060089857 and issue passport to the minor daughter of the petitioner by name Ayra Mulla without insisting the Divorce / Judicial Separation proceedings or orders from her husband, immediately

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents herein to process the application vide Application Reference No. 25-1060089857 and issue passport to the minor daughter of the petitioner by name Ayra Mulla without insisting the Divorce / Judicial Separation proceedings or orders from her husband, immediately pending disposal of the present writ petition

Counsel for the Petitioner:

1. K PALLAVI

Counsel for the Respondent(S):

1. THENEPALLI NIRANJAN SC FOR CENTRAL. GOVT

The Court made the following:

THE HON'BLE SRI JUSTICE BATTU DEVANAND**WRIT PETITION No.2768 of 2026****ORDER: -**

This Writ Petition is filed under Article 226 of the Constitution of India seeking following relief/s...

... pleased to issue an appropriate Writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondents herein in not processing and issuing the passport of the minor daughter of the petitioner by name Ayra Mulla vide Application Reference No.25-1060089857 and orally insisting the petitioner to produce either the Divorce / Judicial Separation Proceedings from her husband or orders from the Honble court in spite of petitioner specifying in the application that she is a single mother as illegal arbitrary opposed to the established principles of law and the same is in violation of fundamental rights of the petitioner guaranteed under Article 19 and 21 of the Constitution of India and consequently direct the respondents herein to process the application vide Application Reference No.25-1060089857 and issue passport to the minor daughter of the petitioner by name Ayra Mulla without insisting the Divorce / Judicial Separation proceedings or orders from her husband immediately and pass such order or orders...

2. Heard the learned counsel for the petitioner and learned Central Government Counsel and learned Government Pleader for Department of Home, and perused the material available on record.

3. The case of the petitioner is that the petitioner herein has made an application for issuance of passport for her minor daughter by name Mulla

Arya, who is aged about 4 years, vide application reference No (ARN).25-1060089857 to the respondent authorities on 28.08.2025. Instead of acting upon the same, the respondents are refusing to process the application on the ground to produce either the divorce or judicial separation proceedings of the petitioner from her husband or Court proceedings. It is submitted that the petitioner got married with one Mulla Suhel. Due to matrimonial disputes between the petitioner and her husband, she is living separately since the year 2022 along with her minor daughter. The petitioner being a single parent and a natural Guardian to her daughter had applied for her daughter's passport without the signature of her husband. However, the petitioner also gave a declaration in annexure C and D of the passport application stating that the reasons for the absence of another parent in the passport application. Since the petitioner meted out harassment in the hands of her husband, she filed criminal cases against her husband for the offences punishable under Section 420, 498A read with 34 I.P.C and Section 3 & 4 of the D.P. Act in C.C.No.3663 of 2023 on the file of the IV additional Judicial Magistrate of First Class, Nellore and also D.V.C.No.74 of 2023 before the Special Judicial Magistrate of First Class for the Trial of Prohibition and Excise Offences, Nellore. Both the cases are pending for trial. For which reason, she did not initiate any proceedings seeking divorce.

4. Further, the petitioner specifically stated in the application that she is a single parent and also gave a declaration in Annexure C and D of the application along with the copies of the cases details. But, the passport

authorities are still insisting the petitioner orally to produce divorce/judicial separation proceedings from her husband or orders from the Court. Although, the petitioner made a representation, dated 08.09.2025 to the respondent authorities to consider the case of the petitioner, till now, there is no response from the respondent authorities and are refusing to process the application for passport to the minor daughter of the petitioner. The act on the part of the respondent authorities is clearly in violation of the Fundamental Rights of the petitioner guaranteed under Article 19 and 21 of the Constitution of India.

5. The 2nd respondent filed counter-affidavit stating that while applying for passport of a minor child, the consent of both parents are required. As the father has not given his consent, the mother has to submit annexure-C declaring that there are ongoing court cases for divorce/judicial separation (including on the issue of custody of minor child) and court has not given any order prohibiting the issue of passport, without consent of the father/mother, but she did not furnish any supporting legal documents. As the petitioner has not submitted any supporting documents, application for issuance of passport to the minor child was kept on hold.

6. The learned counsel for the petitioner and the learned Central Government Counsel appearing for the respondents have advanced their arguments on the same lines.

7. The only legal issue that this Court has to be considered in the present writ petition is whether passport can be issued to the minor child basing on the

application submitted by her mother without consent of the father of that minor child, if there is no prohibitory order from any competent authority?

8. Having considered the facts and circumstances of the case, it appears that the issue involved in this writ petition is no longer *res integra*. Various High Courts have considered this issue and rendered reasoned judgments wherein it is held that a single parent is entitled to apply for a passport for his/her minor child without the consent or signature of the other parent, subject to furnishing of the prescribed annexures.

9. It is very apt to refer the judgment delivered by the Division Bench of Bombay High Court in the case of **Miss Yushika Vivek Gedam vs. Union of India & ors. in WP No.19042/2024** decided on 08.01.2025 in the similar circumstances has issued direction to Passport Authority to issue the passport of minor child without insisting upon the consent of father or Court permission.

The relevant paras of the said judgment read as under:-

"2. The grievance of the petitioner is against respondent No.2 - the Regional Passport Officer, who has issued the impugned communication dated 18 November, 2024 informing the petitioner that her passport application dated 28 October, 2024 would not be processed, for the reason that the petitioner's father has objected for re-issuing passport to the petitioner.

12. The contention of respondent no. 2 is that the petitioner's mother along with the petitioner's passport application submitted a declaration in Annexure-D, which required signatures to be made on the passport application by both the parents of the minor applicant. For the reason that the application was signed only by the mother and the father's signature was missing, as also, it was objected by the father, the impugned communication was issued by respondent no. 2 calling upon the deficiency to be complied by obtaining the father's signature.

13. In such circumstances, the petitioner's mother also additionally submitted a declaration in Annexure-C dated 29 October, 2024, being a declaration required to be submitted by "applicant's parents or guardian for issuance of a passport to minor when the parent has not given consent", in

which she selected option in Clause (II)(d) which is to the following effect: "(d) There is an ongoing court case for divorce/custody of the minor child and the Court has not given any order prohibiting the issue of passport without the consent of the father/ mother.

18. Thus once the aforesaid declaration was submitted by the petitioner's mother in Annexure C, the same was required to be acted upon, as the status of the petitioner's application had underwent a change from the original application, which was submitted in Annexure D, which required the consent of both the parents. However, the impugned communication is solely based, considering that only declaration in Annexure Anne D is being taken into consideration and not the declaration in Annexure C, which came to be filed by the petitioner's mother for the specific reason that the petitioner's father was not granting a consent/NOC.

19. It is also significant that the petitioner's father has not obtained any order from any Court that the petitioner or the petitioner's mother ought not to pursue any application for issuance/re issuance of passport to the petitioner. Also, except for stating that he refuses NOC, the petitioner's father has not made out any legal, valid or justifiable ground or placed any material before respondent No.2 which could justify denial of the issuance of passport to the petitioner, as the law would mandate.

20. In the aforesaid situation, in our opinion, the entire purpose of inviting a declaration in terms of Annexure C (supra) becomes all the more relevant. Annexure -C in clause (II)(b), (d) and (e) as highlighted by us is relevant which deals with different situations where there exists disputes between the parents of the minor applying for passport. Also clause (II)(d) categorically includes a situation in regard to the ongoing court case on divorce proceedings, between the parents of a minor child who has made de an application for a passport.

21. The present case is also quite peculiar inasmuch as on one hand, the petitioner's father is pursuing his case against the petitioner's mother to obtain a divorce nonetheless he objects to the issuance of a NOC. It also appears to be clear that the petitioner is staying with her mother. The petitioner is a bright student having secured outstanding marks in the X Standard examination, which has qualified her to be eligible to be selected to participate in the study tour visiting Japan, being undertaken by Kendriya Vidyalaya. In these circumstances, in our opinion, considering the well-settled position in law, it cannot be that the petitioner's right to travel abroad by issuance of a passport can in any manner be scuttled and/or taken away by denying her a passport to be issued/re-issued merely for the reason that the father for the only reason that he has disputes with the mother, is not supporting the petitioner's application by consenting to it. Also the petitioner's mother mot has submitted a declaration in Annexure-C, which is now required to be considered and processed by respondent no. 2.

22. It is well-settled that the expression "person liberty" which occurs in Article 21 of the Constitution includes right to travel abroad and no person can be deprived of that right except according to the procedure established in law. It is held that the procedure prescribed by law has to be fair, just and reasonable, not fanciful, oppressive or arbitrary. The right to travel abroad is a facet of fundamental right guaranteed under Article 21 of the Constitution of India (See. Maneka Gandhi vs. Union of India (1978 1 SCC 248)). The

petitioner is certainly entitled to such constitutional right guaranteed under Article 21.

23. We may also observe that in the contemporary times traveling abroad cannot be considered to be a fanciful affair but has become an essential requirement of modern life. Such need to travel which may be the requirement of a child, a student or an employee, professional or a person from any other strata of the society, has undergone a monumental change. Thus, the right to travel is required to be not only recognized but made more meaningful. This can be achieved and supported by the authorities implementing the provisions of the Passport Act by effectively recognizing such contemporary needs in dealing with passport applications. The present case is an example of a student being given an opportunity to undertake a study tour by visiting a foreign country. Any action of the Passport Authority in denying the passport would have severe consequence not only adversely affecting the applicant in a given situation, but it may cause irreparable harm to the prospects of the applicant, for any venture she or he intended to undertake. Thus, a mechanical approach in this regard by the Passport Authority cannot be countenanced.

24. We thus find that such valuable constitutional right of the petitioner cannot be prejudiced much less be taken away, and merely on the ground as contained in the impugned communication dated 18 November, 2024 issued by respondent no. 2. Further Section 6 of the Passport Act, 1967 provides for Refusal of passports, travel documents etc. The ground on which the application of the petitioner is not being processed is in no manner whatsoever recognized by Section 6 of the Passport Act. In the aforesaid circumstances, we find that there is no warrant in law for respondent no. 2 to deny the re re-issuance of passport to the petitioner when the declaration in Annexure-C was submitted by the petitioner's mother.

25. We accordingly dispose of the petition in terms of the following terms:

- (i) The impugned communication dated 18 November, 2024 issued by respondent no. 2 is set aside;
- (ii) Respondent no. 2 is directed to issue passport to the petitioner- Ms.Yushika Vivek Gedam under her application No. PN1070298980424 submitted by her mother - the natural guardian
- (iii) The passport be granted to the petitioner within a period of two weeks from today in accordance with law."

10. By following the judgment of the Division Bench of Bombay High Court in **Miss Yushika Vivek Gedam's** case (supra), the Madhya Pradesh High Court while dealing with a writ petition in a case **Devyani Nitish Bharadwaj (Minor) D/o Shri Nitrish Janardan Bharadwaj and Smt. Smita Nitish Bharadwar and others vs. Union of India and others** in identical

circumstances allowed the said writ petition directing the passport authorities to renew the passport of minor children upon the application which is already submitted by them through their mother after considering declaration submitted by her in form of annexure.

11. The Telangana High Court in the case of **Zayanab Aaliyah Mohammed vs. The Union of India in W.P.No.25962 of 2024** by following its earlier judgment in **L. Deepika vs. Union of India** and the judgment of the Kerala High Court in **Juvairiya vs. Regional Passport Officer** and in **Chaitanya S. Nair vs. Union of India** had considered the issue in detail and held that such application for passport to the minor child is made by a single parent can also be considered by the passport issuing authorities, provided that the declarations in Annexure-C, D, etc., which may be required by them.

The relevant paragraphs in *Zayanab Aaliyah Mohammed's* case (stated supra) are extracted herein under:

“8. From the material on record it is evident that Dr.Sana Fatima is a single parent to the extent of having exclusive custody of the minor child. It is also undisputed that the parents of the minor are estranged in view of the pending divorce proceedings before the City Civil Court, Hyderabad. The only issue which falls for consideration is whether the Office Memorandum of 31.07.2024 can affect the right of the minor child for being considered for issuance of a passport and whether Dr.Sana Fatima (the single parent) has complied with the statutory requirements for processing of the passport applications.

Relevant Statutory Provisions

9. Column 16 in Section III of the Guidelines for filling up of Application Forms under the 1980 Rules provides for cases where a single parent can furnish a sworn affidavit before the Ministry stating the facts of the case along with documentary proof as per Annexure 'C'. The relevant part of Column 16 is extracted below:

"...In the NORMAL COURSE the signature/consent of both parents is required for issue of a passport to the minor (Annexure "H"). However, if in case the applicant parent is not in a position to get the consent of the other parent, FOR WHATEVER REASON, the parent applying for the passport of the minor may sign the form and submit a sworn affidavit as per Annexure "G"..."

10. Section IV of the 1980 Rules further provides under (A)(3)(a) that when applying for a minor's passport a declaration from the single parent/applicant parent, as the case may be, will have to be furnished along with particulars about the minor child as per Annexure 'H'. Annexure 'C' would apply for single parents who are separated but not formally divorced and Annexure 'G' when the passport is being applied for by the single parent or a legal guardian. Section IV (A)(3)(a) further enumerates the documents which should be filled up in Annexures 'C' and 'G', as the case may be. A "Note" to this section provides as follows:

"N.B. - Ordinarily the consent of both parents is required for issue of a passport to a minor (below 18 years of age). However if it is absolutely not possible due to any reason, the parent applying for a passport for his/her minor child may submit an affidavit (Annexure "G") and based on the same passport application will be processed."

11. Clause 4.8 of the Guidelines relating to issue of passports framed under The Passports Act, 1967 provides as follows:

"In case one married parent has terminated the relationship with the other parent without a formal divorce, a declaration in the format of Annexure 'C' may be accepted from the parent having the custody of the child."

12. Clause 4.8 was considered by a Division Bench of this Court presided over by the Hon'ble the Chief Justice in W.A.No.239 of 2024 by a judgment dated 02.04.2024 which held that a single parent having custody of a child is entitled to seek renewal of the passport. Neither the 1967 Act nor the Rules contained therein contain any statutory provision that a single parent cannot maintain an application seeking renewal of the passport.

13. The position under the 1967 Act as well as the 1980 Rules is hence clear. The Act does not prohibit a single parent from applying for a passport for his/her minor child. The 1980 Rules specifically provide for situations where a single parent with exclusive custody of the minor child can apply for a passport without the signature or consent of the other parent. This would be applicable where the parents are separated but without a formal decree of divorce. The only condition is that the parent must furnish information in the prescribed annexure as per the Rules and Guidelines.

14. Further, any interpretation of the 1967 Act or the 1980 Rules with the effect of preventing a single parent from applying for a passport for his/her minor child is patently contrary to the rights of the parent as well as the minor child including those granted under the Constitution of India. It is

inconceivable in this day and age that a single parent who is no longer in touch with the other parent of the minor child "for whatever reason",

as Column 16 states would be made to suffer a statutory embargo in applying for a passport for the minor child.

15. The right of a single parent in applying for a passport of a minor child has been considered by several Courts including a Co-ordinate Bench of this Court in L.Deepika (supra). The facts in that case are similar to the facts in the present writ petition where the passport authorities objected to the processing of the passport application submitted by the petitioner without the consent of the other parent. Like in the present case, a divorce application was also pending in L.Deepika. The Court considered Juvairiya Vs. Regional Passport Officer 2 and Chaitanya S.Nair Vs. Union of India 3 and held that the objections raised by the passport authorities were contrary to the Passport Rules, 1980 and hence they are liable to be set aside. The passport authorities were accordingly directed to consider the application submitted by the petitioner for issuance of passport to the petitioner's minor son.

16. In the present case, there is a pending divorce proceeding between the petitioner's mother and the respondent No.3/father. The respondent No.3 has opted for citizenship of 2(2014) 1 ALT 990 3WP(C)No.22555 of 2021 dated 08.03.2022 the United States of America and the Court is informed that presently there is no contact between the petitioner and the respondent No.3.

17. Although, not relevant to the issue at hand, there is no criminal case pending against the petitioner's mother/Dr.Sana Fatima. The respondent No.3 has also not filed for custody or guardianship of the minor child. More importantly, the petitioner has already filed declarations in Annexures 'C' and 'D' and all required documents with the said Annexures. Annexure 'C', which is part of the writ petition includes a declaration pertaining to the ongoing Court case as well as the fact that there is no order prohibiting issuance of passport to the minor child without the consent of the respondent No.3. Annexure 'C' also declares that the petitioner has been deserted by the respondent No.3 and that the minor child is under the exclusive care and custody of the mother/Dr.Sana Fatima.

18. The Office Memorandum ('OM') dated 30.07.2024 which the learned Deputy Solicitor General of India relies on does not assist the case of the respondents and cannot be an impediment for granting relief to the petitioner. First, the OM relates to "re- issue" of passports to minor children. Second, Clause 3(c)(iii) of the OM deals with the effect of the parent of the minor child having acquired citizenship of another country and the consequent effect of such on a child. Third, Clause 4 also deals with the citizenship of the minor where one of the parent renounces citizenship and the other parent continues to hold Indian citizenship and the custody of the child is given to one of the parents with or without divorce. None of these clauses apply to the issue at hand, namely, whether a single parent can apply for passport of a minor child.

19. Most importantly, the OM, even if applicable cannot replace The Passports Act, 1967 and the 1980 Rules framed thereunder which specifically takes those cases into account where a single parent is entitled to apply for a passport for his/her minor child without the consent or signature of the other parent, subject to furnishing of the prescribed Annexure.

20. Column 16, as stated above, highlights that if a single parent/ applicant is not in a position to obtain the consent of the other parent "for whatever reason", the applicant-parent may complete the necessary formalities in aid of the application. The fact that the respondent No.3 has acquired American citizenship does not make the case different from the one provided in Column 16 or a departure thereunder. "For whatever reason" attracts every conceivable situation and the respondent No.3 becoming an American citizen cannot and does not render Column 16 inapplicable to the facts of the present case.

21. The above reasons are sufficient for the Court to allow the writ petition and grant the relief prayed for."

12. By following the judgment of the Telangana High Court in *Zayanab Aaliyah Mohammed's* case (stated supra), the Madras High Court has considered a writ petition filed under identical circumstances in the case of **Anitha vs. The Regional Passport Authority, Madhurai** in Writ Petition (MD) No.24403 of 2025, wherein it is held that de hors the fact that the petitioner's husband has not signed the passport application, the application for the issue of the passport shall be considered by the respondent and the passport shall be issued in favour of the petitioner's daughter.

13. Having considered the facts and circumstances of the case and in the light of the decisions of the various High Courts stated supra and taking into the fact that the petitioner has already submitted declaration in annexure-C and D along with the application, in the considered opinion of this Court, being the petitioner is a single parent, she is entitled to make application for passport of her minor child without the consent or signature of her husband.

14. Accordingly, this writ petition is allowed directing the Respondent No.2 to consider the application submitted by the petitioner for issuing passport to her minor child, within a period of 02 (two) weeks from the date of receipt of a copy of this order.

15. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

Dated: 01.05.2026
PGR

THE HON'BLE SRI JUSTICE BATTU DEVANAND

W.P.No.2768 of 2026

Dated: 01.05.2026

PGR