



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 8993/2024
CNR: RJHC010396332024 | URN: CW / 17713U / 2024

1. Parul Nahar W/o Yatish Nainawatee, Aged About 42 Years, 53-B, Kashipuri, Bhilwara (Rajasthan)
2. Vanisha Nainawatee D/o Yatish Nainawatee, Aged About 7 Years, 53-B, Kashipuri, Bhilwara (Rajasthan) Through Natural Guardian Mother Parul Nahar W/o Yatish Nainawatee, Resident Of 53-B, Kashipuri, Bhilwara (Rajasthan)

----Petitioners

Versus

1. Union Of India, Through The Chief Passport Officer, Ministry Of External Affairs, New Delhi.
2. Regional Passport Officer, Ministry Of External Affairs, Regional Passport Office, Kota Address- E-10B, Exchange Building, Plot No. Sp-1, Road No.2, Indraprasth Industrial Area (Ipia), Kota - 324005

----Respondents

For Petitioner(s) : Mr. Madhav Vyas.
For Respondent(s) : Ms. Pintu Pareek.

**HON'BLE DR. JUSTICE NUPUR BHATI
ORDER**

06/10/2026

1. The instant writ petition has been filed by the petitioners under Article 226 of the Constitution of India with the following prayers:

".....xxxxxx

It is therefore, respectfully prayed that this writ petition may kindly be allowed, and by an appropriate writ, order or direction the impugned Email dated 04.05.2024 Annex. 17 and the Objection Letter issued by Respondent No. 2 may kindly be set aside. By a further direction the respondents may kindly be directed to re-issue the passport to the petitioner No. 2 as soon as possible within 2 working days by approving the passport application No. KT2076324582924 dated 04.03.2024.

.....xxxxxx"



2. Counsel for the petitioners had preferred an application (No.01/2025) seeking dispensation of impleadment of petitioners' erstwhile husband-Shri Digvijay Dhariwal (biological father of petitioner No.2) as a party respondent in the writ petition.

3. Counsel for the petitioners submits that vide order dated 20.09.2024, the Coordinate Bench of this Court had directed petitioner No.1 to implead her erstwhile husband, Shri Digvijay Dhariwal, as a party-respondent to the writ petition. The petitioners preferred D.B. Special Appeal (Writ) No.342/2025 before the Hon'ble Division Bench, which was withdrawn vide order dated 19.08.2025 with liberty to file an appropriate application before this Court. Counsel for the petitioners, thus, submits that the whereabouts of Shri Digvijay Dhariwal are unknown despite all reasonable efforts to trace him and that insisting upon his impleadment would cause unnecessary delay in adjudication thereby, prejudicing the urgent educational and travel needs of petitioner No.2, who is a minor child aged 7 years. It is further stated in the application that the marriage stands dissolved by mutual consent vide decree dated 13.01.2022 passed by a competent court at Dubai, whereunder legal custody of petitioner No.2 was given to her mother, while the biological father retained only visitation rights.

4. Having considered the application (No.01/2025) as well as the submissions advanced by the petitioners' counsel, the same is allowed. The requirement of impleading Shri Digvijay Dhariwal as a party-respondent in the present writ petition, is dispensed with.

5. Another application (No.01/2026) filed by counsel for the petitioners for early disposal of the writ petition, is also disposed





of for the reasons indicated therein and the writ petition is taken up for final disposal.

6. Facts of the case in nutshell are that petitioner No.1 married one Digvijay Dhariwal on 09.02.2010, and a minor daughter, Vanisha (petitioner No.2), was born on 19.10.2016. The marriage was dissolved by mutual consent vide decree dated 13.01.2022 passed by a competent court at Dubai, whereunder legal custody of the minor child was given to the mother (petitioner No.1), while the biological father retained only visitation rights. Petitioner No.1 remarried one Yatish Nainawatee on 22.01.2024, and the minor child was duly adopted by the step-father under a registered adoption deed. On 04.03.2024, petitioner No.1 submitted an application to respondent No.2 (Regional Passport Officer) for re-issuance of the passport of petitioner No.2, seeking change of surname and inclusion of the step-father's name, along with the requisite declaration in terms of Annexure-C to the Passport Rules, 1980. Vide communication dated 04.05.2024, respondent No.2 declined to process the application solely on the ground that the consent of the biological father was not available and that he retained visitation rights. Aggrieved thereby, the petitioners have filed the present writ petition seeking quashing of the impugned email dated 04.05.2024 (Annex.17) and the objection letter issued by respondent No.2, and a direction to re-issue the passport to petitioner No.2. Hence, this petition.

7. At the outset, counsel representing the petitioners submits that the controversy involved in the writ petition is squarely covered by the judgment dated 18.08.2026 passed by the





Coordinate Bench of this Court in **SBCWP No.17014/2026** :
"Riddham Deora v. The Union of India & Ors."

8. On the other hand, counsel representing the respondents, is not in a position to refute the fact that the issue involved in the present writ petition is squarely covered by the judgment passed in the case of **Riddham Deora (supra)**.

9. Heard.

10. The Coordinate Bench of this Court in **Riddham Deora (supra)**, has observed that the right of a child, such as the petitioner, to get a passport issued for going abroad for the purpose of studies for betterment of his future career cannot be allowed to be ruined and violated in absence of consent of the father, who has been divorced by his wife, i.e. the child's mother.

The relevant paras of the same are reproduced hereunder:

".....XXXXXXXXX

12. Under these circumstances, in the considered opinion of this Court, the petitioner cannot be declined to travel abroad for the purpose of studies, on a technical count that passport cannot be granted to him in absence of consent of his father, who has no concern whatsoever with the domestic affairs of the petitioner or his mother.

13. It is a well-settled proposition of law that right to personal liberty conferred under Article 21 of the Constitution of India includes right to travel abroad and no person can be deprived of that right except according to the procedure established by law. It is held that the procedure prescribed by the law has to be just, fair and reasonable, not fanciful or oppressive or arbitrary. Right to travel abroad is an integral facet of fundamental right, as guaranteed under Article 21 of the Constitution of India. The petitioner is certainly entitled to such Constitutional and Fundamental Right, as guaranteed under Article 21 of the Constitution of India.

14. This Court finds that such valuable Constitutional and Fundamental Right of the petitioner cannot be prejudiced or taken away merely on the ground that there is no order passed by the Family Court, Pali with regard to entitlement of custody of the petitioner.

15. Legally also, the passport issuing authority cannot insist for consent from both the parents for issuing a passport to a minor child. Though in earlier times, there was ambiguity and confusion regarding the procedure to be adopted when consent of both parents could not be obtained, while issuing a passport to a minor, but by virtue of several precedents, which were subsequently





incorporated as guidelines in the Passport Manual, it has been provided that, if an affidavit is filed in the form of Annexure-C (earlier Annexure-G) of Schedule III of the Passport Rules, 1980, the passport issuing authority can issue a passport to a minor child, without insisting upon the consent of both the parents. Therefore, even if one of the parents of a minor child refuses to give consent, then also the passport issuing authority can still issue a passport to a minor, provided Annexure-C is submitted.

16. The Telangana High Court in the case of **L. Deepika vs. Union of India** reported in **2022 SCC OnLine TS 2481** has with dealt the identical situation in paras 17, 18 and 19 which reads as under:

"17. It is relevant to note that in Schedule III of Passport Rules 1980, it is stipulated, where the applicant parent is not in a position to get consent of the other parent, for whatever reason, the parent applying for Passport of the minor may sign the form (application form) and submit a sworn affidavit as per Annexure-C.

18. In the Rules and also in the aforesaid Annexures, there is no mention that the petitioner has to obtain permission from the court on the ground that the other spouse is not giving consent. What is required is that the petitioner shall submit undertaking in Annexure-C which the petitioner herein had already submitted. As stated above there are matrimonial disputes between the petitioner and 3rd respondent. He had filed the aforesaid FCOP No. 253 of 2020 seeking dissolution of marriage on the ground of cruelty. Therefore, it is practically impossible for the petitioner to get the consent of the 3rd respondent, due to the aforesaid strained relations between them. However, she had submitted the aforesaid undertaking in Annexure-C. She has specifically stated that she will take responsibility with regard to the aforesaid case. Admittedly there is no crime pending against the petitioner and 3rd respondent has also not filed any custody petition or guardianship petition.

19. In view of the aforesaid discussion, the impugned proceedings dated 29-3-2022 are illegal and also contrary to the Passport Rules and the principle laid down by High Court of Kerala in the aforesaid judgments. Therefore, the same are set aside. The 2nd respondent is directed to consider the application submitted by the petitioner dated 22.12.2021 and issue Passport to the minor son of the petitioner."

17. 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.

18. Generally the parents worry about what their children would do in future yet they forget that their children are someone today. They think about their future but they forget about their present. Unless the present of the children is fine and taken care of, how would their future become bright.

19. The right of a child, such as the petitioner, to get a passport issued for going abroad for the purpose of studies for betterment of his future career cannot be allowed to be ruined and violated in absence of consent of the father, who has been divorced by his wife, i.e. the child's mother.

The future and career of the petitioner cannot be allowed to remain dependent upon the wish, will and desire of one of his parents. The valuable constitutional right of the petitioner cannot be prejudiced and must not be allowed to be taken away, merely because the consent of his father is not there on the application for getting passport. The petitioner cannot be compelled to approach his father to get his consent on the said application.

20. Considering the overall facts and circumstances of the case, the instant writ petition is liable to be and is hereby allowed. The respondent-passport authority is directed to issue passport to the petitioner forthwith without any further delay.

21. Pending applications, if any, stand disposed of."

11. Thus, taking into consideration the relevant paras of the judgment passed in **Riddham Deora (supra)**, the writ petition is also allowed in the same terms.

12. The respondent-Passport Authority is directed to issue passport to the petitioner No.2 forthwith, without any further delay.

13. Stay application as well as all other pending applications, if any, also stand disposed of.

(DR.NUPUR BHATI),J

204/Devesh Thanvi

