

Passport and Criminal Antecedent

August 10, 2021

A recent circular issued by the police in Kashmir has asked field intelligence units to look into the past record of involvement in stone-pelting incidents and other street protests whenever someone applies for a passport or a government job. Security clearance can be denied to applicants if the police find evidence of any criminal activity in their records. The development brings to the fore the circumstances in which applicants can be refused a passport or a government job based on their antecedents.

In news: Jammu and Kashmir to deny passport, jobs to residents with 'adverse police report'

Placing it in syllabus: Law & Policy

Dimensions

- What is the issue about?
- Brief Provisions of Passport Act 1967
- Grounds of denial
- Can a criminal case be a ground for denial?
- Criticisms

Content:

What is the issue about?

- Police verification and security clearances for passport or government job applicants are a matter of routine in most parts of the country.
- A recent circular issued by the police in Kashmir has asked field intelligence units of CID to specifically look into the past record of involvement in law-and-order incidents and related crimes, and also to collect

digital evidence from the records of police and security forces

- It called for collecting digital evidence like the CCTV footage, photographs, videos, audio clips and quadcopter images available in the records of the police, security forces and agencies as references. “Any subject found involved in any such cases must be denied the security clearances.”
- Security clearance can be denied to applicants if the police find evidence of any criminal activity in their records.
- The circular suggests that the administration is quite serious about preventing those with a likely link to protests in the past from either entering government service or travelling abroad.
- Top sources said the list of persons – including lawyers, journalists, politicians, civil society members – with “adverse background reports” is growing longer in the last one year.
- Many mainstream leaders, even from the National Conference and the Peoples Democratic Party, were denied passport and travel documents.

Brief Provisions of Passport Act 1967:

- The Indian Passports Act 1967 is an act of the Parliament of India **“for the issue of passports and travel documents, to regulate the departure from India of citizens of India and for other persons and for matters incidental or ancillary thereto.”**
- The **Act applies to the whole of India** extending to citizens of India living outside the country.
- The Act replaced the Indian Passport Ordinance 1967 and was enacted by Act 15 of 1967 with retrospective effect from 5 May 1967.
- The act **describes the procedures in getting an Indian passport**, which replaced the British Indian passport and

The Passport Act of 1920.

- In **conformity with Article 9 of the Indian Constitution**, the Act **does not allow dual citizenship**.
- Under **Section 12 of the Act**, a person must surrender his passport if he has acquired the citizenship of a foreign country.

Grounds of denial:

- Under **Section 6(2) of the Indian Passports Act, 1967**, the passport authority can refuse to issue a passport for specific reasons such as:
 - the applicant being not a citizen of India;
 - that the applicant may engage, outside India, in activities prejudicial to the country's sovereignty and integrity, or
 - that the applicant's departure may be detrimental to the country's security; or
 - that the person's presence abroad may prejudice India's friendly relations with a foreign country.

Can a criminal case be a ground for denial?

- Refusal of passport may also be related to a **person's antecedents**.
- **Conviction for any offence** that involves "**moral turpitude**" with a **sentence of not less than two years in the five preceding years** would mean denial of passport.
- It can also be refused **if any proceedings are pending in a criminal court against the applicant**; and **if any arrest warrant or summons for appearance is pending**.
- There is a general power to deny a passport or travel document to anyone "if in the opinion of the Central government, **it is not in public interest**".
- **Section 22** of the Act confers **power on the Union government to exempt any person or class of persons from its provisions by way of notification**.
- On August 25, 1993, the Ministry of External Affairs

issued a notification to provide relief to citizens against whom proceedings are pending before a criminal court.

- Under this notification, they can be issued a passport or travel document if they produce an order from the court concerned permitting them to depart from India.
- If the court specified a period in its order, they could be issued passports with validity for that period, or, if no period was specified, it could be given for one year.

Criticisms:

The fresh order is likely to leave hundreds of locals ineligible for passports and jobs in the Valley. Some of the criticisms are that:

- ***Prejudicial in Nature:*** the exercise may not be out of the ordinary, but it could result in serious prejudice to the aspirations of many young men and women.
- ***Counterproductive to present political efforts:*** In the backdrop of the Union government's outreach to revive political activity preparatory to elections, such a far-reaching measure that would dampen the hopes and aspirations of thousands of people
- ***Further alienation of youth:*** If the administration to pursue this circular zealously, there is a danger that it may revive the sort of alienation among the youth that led to the stone-pelting incidents in 2008 and 2010

Mould your thought: Discuss the ground in which a person may be denied a passport in India. Evaluate the applicability of the recent circular issued by the police in Kashmir asking field intelligence units to specifically look into the past record of involvement in law-and-order incidents and related crimes for issuing passports.

Approach to the answer:

- Introduction
- Discuss Section 6 (2) of Indian Passport Act 1967
- Discuss the provisions of the circular
- Discuss whether a criminal case be a ground for denial
- Mention the criticism of the circular
- Conclusion