

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

WP NO.2400/2015

71 WRIT PETITION NO. 2400 OF 2015

SALEEM ABDULLAH HILABI
VERSUS
UNION OF INDIA AND ANOTHER

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Advocate for Petitioner : Mr. Shaikh R R
Mr. S.B.Deshpande, ASG, for respondent - Union Of India

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CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: March 09, 2015

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PER COURT :-

1. The petitioner has presented instant petition seeking directions to respondents to consider the application tendered by the petitioner for issuance of passport and take appropriate decision thereon. The petitioner claims that on a passport issued earlier, while he was minor, his date of birth is recorded as 2.6.1955, which needs to be corrected as 2.6.1961.

2. The respondents, finding inconsistency in the date of birth, directed the petitioner to submit a declaratory decree recording correction in the date of birth. The petitioner, however, tendered an application to the Judicial Magistrate, First Class, implicating the Regional Passport Officer as party respondent and praying for issuance of directions to respondents to amend the date of birth in the record. The application came to be rejected by the Judicial magistrate, First Class and, according to us, rightly so on 29.3.2014.

agp/-

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3. The petitioner contends that no such declaratory decree is required for effecting corrections in the date of birth and placed reliance on the observations made in the judgment delivered by the Judicial Magistrate, First Class, based on the contentions raised before the Magistrate by the respondents therein. It would be difficult to accept the contentions raised by the petitioner that no decree can be issued seeking a declaration under the provisions of Specific Relief Act, 1963. It would, however, be open for the petitioner to take suitable steps for protecting his interests.

4. Petitioner placed reliance on the judgment in the matter of **Aparna Mody Vs. Union of India** delivered by Rajasthan High Court on 28th May, 2013. In the facts and circumstances of the case, the Rajasthan High Court, finding that the objections raised by the passport authority, and the discrepancy observed, are not of such a serious magnitude which calls for presenting declaratory decree, directed the passport authorities to make appropriate amendments which, the Court thought, are of trivial nature. In our view, there is no ratio laid down by the Rajasthan High Court and the judgment delivered in the said matter does not apply to the facts and circumstances of this case.

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5. The petitioner also contends that the respondent authorities are not taking any final decision on the application tendered by the petitioner. The petitioner, obviously, does not intend to comply with the requirements insisted upon by the Passport authorities.

6. In the facts and circumstances of the case, it would be open for the respondent Passport authorities to take appropriate decision and communicate the same to the petitioner and we expect the respondents to communicate the decision as expeditiously as possible preferably within a period of two months from today and it is accordingly directed.

No direction, as requested by the petitioner, in the instant petition, deserves to be issued.

The writ petition stands rejected.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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