

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11120 OF 2014

Smt. Monali @ Maimuna Yusuf Solanki
Age : 40 years, Occ. Business,
R/o. Flat No. C-7, Ayodya Tower,
Kolhapur, Dist. Kolhapur.

Petitioner

VERSUS

1. The State of Maharashtra,
Through The Secretary,
Health Department,
Mantralaya, Mumbai-32.

(Copy to be served on G.P. Office
High Court of Bombay, Bench at
Aurangabad)

2. Registrar,
Authority of Birth & Death Department,
Municipal Corporation, Aurangabad.
3. Ward Officer/Sub Registrar,
Birth & Death Registration,
Ward Office, Ward-A,
Municipal Corporation,
Aurangabad.

(Copy to be served on Standing Counsel
of Municipal Corporation, Aurangabad
For respondent No. 2 & 3)

4. Principal,
Padmashree D.Y.Patil Academy's
Shantiniketan Secondary and Senior
Secondary School, 134, 'E', Near
Shivaji University, Morewadi,
Kolhapur, Dist. Kolhapur.

Respondents

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Advocate for Petitioner : Mr. I.S. Thorat
AGP for Respondents: Mrs. A.V.Gondhalekar
Advocate for Respondents 2 & 5 : Mrs. M.A. Deshpande

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CORAM : R. M. BORDE & V.K. JADHAV, JJ.

Dated: May 05, 2015

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ORAL JUDGMENT :- (Per R.M.Borde, J.)

1. Rule. Rule made returnable forthwith. With the consent of parties, petition is taken up for final hearing at admission stage.

2. The petitioner is seeking writ of certiorari or order or direction to quash and set aside the communication issued by the Municipal Corporation, Aurangabad on 22.10.2014. Petition is presented by the mother of minor son Aman who was born to her from the wedlock with one Mohd. Yusuf Haji Ibrahim Solanki on 8.2.2001. The birth of her son was registered with the Municipal Authorities and in the birth register, entry is recorded in respect of his name as Aman Khan s/o Yusuf Khan. The entry in the register appears to have been recorded on the basis of birth certificate issued by Dhanvantari Hospital, Aurangabad on 8.2.2001 wherein the name of the mother i.e. petitioner herein, is recorded as "Maimuna Khan w/o Yusuf Khan" and date of delivery is recorded as 8.2.2001. The petitioner contends that in fact

her name is Monali @ Maimuna w/o Mohd. Yusuf Solanki however, her name has been wrongly recorded in the certificate issued by the Hospital as 'Maimuna Khan'. The petitioner tendered an application to the Municipal Corporation seeking correction in the name of her son appearing on the birth certificate, however, her application has been rejected referring to section 15 of the Registration of Birth and Death Act, 1969 as well as Rules 11 of the Maharashtra Birth and Death Registration Rules, 1976.

3. Petitioner submits that there is voluminous record available which indicates that her name is Monali @ Maimuna w/o Mohd. Yusuf Solanki whereas name of her son is Aman s/o Mohd. Yusuf Solanki. Copies of the school record of her son are placed on record which supports her contention. Aadhar Card issued by the Union of India also records name of the petitioner as Monali @ Maimuna w/o Mohd Yusuf. The petitioner has also sworn an affidavit supporting her contentions. It is contention of petitioner that her husband is no more. Petitioner contends that name appearing on the birth certificate needs to be corrected to facilitate her son to secure the passport. It is pointed out that he was selected for participation in the cricket tournament which was scheduled to be held at England

during 1st & 2nd week of August and for the said purpose her son needed passport. A marriage Certificate/Nikahnama issued by Jamatul Muslemeen Madar Chilla Masjid Raviwar Peth, Poona City records name of the petitioner as Monali @ Maimuna where as name of her husband is recorded as Mohd. Yusuf s/o Haji Ibrahim Solanki. Date of marriage recorded in the Nikahnama is 17.4.1997. Nikahnama is signed by Mutawalli, two witnesses and Qazi. In view of the evidence produced by the petitioner, we are of the view that an inadvertent error appearing in the certificate needs to be corrected by the Municipal Authorities. Section 15 of the Registration of Births and Deaths Act, 1969 provides for correction and cancellation of entry in the register of Birth and deaths. It is provided that, if it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation. The rules

framed by the State Government also permits correction of an erroneous entry recorded in the register by the Registering Authority. Rule 11 of the Rules framed by the State Government cannot be considered as an impediment for making correction of the entry recorded in the birth register.

4. For the reasons recorded above, we are of the view that order passed by the Municipal Corporation/Registering Authority rejecting the application tendered by the petitioner by an order dated 22.10.2014 needs to be quashed and set aside and the same is accordingly quashed and set aside. Registering Authority is directed to make necessary corrections in the birth certificate issued in favour of son of the petitioner as requested by the petitioner and issue a fresh certificate as expeditiously as possible, and preferably within a period of six weeks from today. Writ Petition is disposed of. Rule is accordingly made absolute. There shall be no order as to costs.

(V.K. JADHAV, J.)

(R. M. BORDE, J.)

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