

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 577 of 2015 (V)

PETITIONER:

**ABDUL KHADER ASHRAF,
S/O.ABDUL KHADER, AJEENA MANZIL, THEKKVILA,
ERAVIPURAM, KOLLAM DISTRICT,
NOW RESIDING AT RAJITHA MANZIL, PEOPLES NAGAR-257,
CHAKKARATHOPE, KADAPPAKKADA.P.O, KOLLAM CITY-691 008.**

BY ADV. SRI.S.M.ALTHAF

RESPONDENTS:

- 1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
MINISTRY OF EXTERNAL AFFIARS, NEW DELHI-110 001.**
- 2. THE REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, THIRUVANANTHAPURAM-695 003.**
- 3. THE SECRETARY,
BOARD OF PUBLIC EXAMINATION,
THIRUVANANTHAPURAM-695 001.**

R1 & R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 577 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 TRUE COPY OF THE PASSPORT NO.L0041969 ISSUED TO THE
 PETITIONER**
- EXT.P2 TRUE COPY OF THE APPLICATION SUBMITTED TO THE 2ND
 RESPONDENT**
- EXT.P3 TRUE COPY OF THE CERTIFICATE ISSUED TO THE PETITIONER BY
 THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS & ANNEXURES:

ANNEXU R2(A). TRUE COPY OF THE INDEX CARD SUBMITTED BY THE PETITIONER.

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 577 of 2015

Dated this the 25th day of February, 2015

J U D G M E N T

The petitioner was issued Ext.P1 Passport bearing No.L0041969 from the Passport Office at Thiruchirapilly in Tamil Nadu, showing the 'Place of Birth' as 'Kattar' and 'Date of Birth' as 12.10.1951. It is stated that the Passport came to be renewed from the Embassy at Riyad. According to the petitioner, the actual 'Date of Birth' is 07.05.1967 as discernible from Ext.P3 S.S.L.C. Book. The petitioner approached the 2nd respondent seeking to have the 'Date of Birth' corrected on the basis of Ext.P3 S.S.L.C. Book. This was not acceded to, which made the petitioner to approach this Court by filing the writ petition.

A statement has been filed on behalf of the respondents 1& 2, paragraphs 3, 4 and 6 of which read as follows:

“3. The petitioner initially obtained passport in 1992 from Thiruchirappalli with date of birth as '12.10.1951' and place of birth as 'Kottar, Tamil Nadu'. True copy of the Index Card is produced herewith and marked as Annexure R2(a). Passport No.E3981652 dated 02.03.2003 was issued from Embassy of India, Riyadh in continuation of passport No.K975575 dated 11.03.1992 issued from Passport Office, Trichy to Shri. Abdul Khader Ashraf. The present passport No.L0041969 dated 03.04.2013 was issued from Embassy of

India Riyadh in continuation of Passport No.E3981652. In 2003 and 2013 he had furnished the same date of birth and place of birth and never revealed that it was a wrong entry. The photographs in the index card and in applications submitted subsequently appears different.

4. Now the petitioner approached this Honourable Court to correct date of birth in his passport as 07.05.1967 instead of 12.10.1951. In this case the difference in date of birth in the existing passport and the date of birth claimed to be correct is of sixteen years. As the photographs in the index card also shows a substantial difference, the identity of the person who obtained passport in 1992 from Thiruchirappalli and the petitioner are to be confirmed to establish that they belongs to the same person. Moreover, as per passport Manual 2010, where files have already been destroyed, PIAs could use their discretion in correction of date of birth without a court order, where such corrections is only in months (not more than two years) and applicants provide satisfactory explanation that the same document(s) was provided at the time of initial passport application. Hence the respondents can not use discretionary power to amend date of birth in the petitioner's passport.

6. As per Ext.P2 he has entered his place of birth as 'Quilon, Kerala' instead of 'Kottar, Tamilnadu' and it is not mentioned in the writ petition. Passport Manual 2010, 6(1) reads as "since applicants randomly write village, town or city as place of birth, it is possible that a person born in suburb may write the name of the main city itself. Accordingly, PIAs should not contest change of place of birth in courts if the place already recorded in the passport and the one the applicants wants to change fall within the same district or adjoining districts. However, when such change is

sought to be made from one state to another, or from India to abroad or vice versa, the case should be examined thoroughly and properly contested in the court."

2. On going through the materials on record, it is seen that, the 'place of birth' shown by the petitioner at the time of obtaining Ext.P1 Passport was at 'Kattar' in 'Kanyakumari' and the same stands as it is, even in Ext.P1 Passport. As such, the version of the petitioner that, the 'Place of Birth' was got corrected when the passport was reissued at Riyadh, is not correct, though the address has been given as, at Kollam. Coming to the 'Date of Birth', the petitioner does not have a case that he had taken any action after issuance of Ext.P1 till date, for causing the 'Date of Birth' to be corrected, if at all any genuine mistake was there. It is also seen that, the passport was got renewed twice in the Embassy of Riyadh in the year 2003 and also in 2013. It is after 16 years, that the petitioner has chosen to approach this Court by filing the writ petition seeking to have intervention.

3. After hearing both the sides, this Court finds that, there is considerable force in the submission made from the part of the respondents. This Court finds that, this is not a fit case to call for interference invoking the discretionary

jurisdiction of this Court under Article 226 of the Constitution of India.

Interference is declined and the writ petition stands dismissed accordingly.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE

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