

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 3553 of 2015 (T)

PETITIONER(S) :

**ABDUL ASHRAF, AGED 48 YEARS,
S/O. ABDULLA, AKKADINTAVIDA HOUSE, PUTHUPPANAM P.O,
VATAKARA, KOZHIKODE - 673 105.**

BY ADV. SRI.ZUBAIR PULIKOOL

RESPONDENT(S) :

**1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS, SOUTH BLOCK,
GOVERNMENT OF INDIA, NEW DELHI - 110 001.**

**2. THE REGIONAL PASSPORT OFFICER,
PASSPORT OFFICE, ERANHIPPALAM, KOZHIKODE- 673 006.**

BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE RELEVANT PAGE IN THE PASSPORT.

**EXHIBIT-P2: TRUE COPY OF THE EXTRACT FROM THE ADMISSION REGISTER
OF MEMUNDA HIGHER SECONDARY SCHOOL.**

**EXHIBIT-P3: TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE
THE 2ND RESPONDENT BY THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.3553 of 2015

Dated this the 24th day of March, 2015

JUDGMENT

The petitioner is the holder of the passport bearing No.**E 7336333**. The date of birth shown in the passport as '**08.02.1957**', which according to the petitioner is actually '**20.02.1966**'. The petitioner wants to effect correction of date of birth in the passport with reference to the entires in Ext.P2 School records and accordingly, the petitioner approached the second respondent by filing Ext.P3 representation. The petitioner has been given to understand that, unless the petitioner obtains some favourable orders from a competent Court of law, the request made by the petitioner will not be acceded to, and hence the writ petition.

2. The learned counsel for the petitioner submits that, in view of the law declared by this Court in **Nizar v. Union of India** (2014 (4) KLT 609) and that of in **Swapna Siju Vs. Union**

of India (2012 (4) KLT 419), the stand taken by the respondent is liable to be intercepted and the petitioner is entitled to have the relief sought for.

3. Heard the learned Assistant Solicitor General of India, who pointed out that, a statement has been filed from the part of the respondents, paragraphs 3 to 5 are relevant, hence extracted below:

"3. Passport No.E 7336333 was issued from Embassy of India Muscat as re issue case in continuation of another passport. Since no documentary proof of age is required for re issue of Passport, and the details of his passport is not available in the system, this office could not find the documents he had submitted along with his application for first passport. The petitioner had not disclosed which document he had furnished along with his first passport application for obtaining his first passport and most probably he might have submitted fake documents to prove the name, age etc. It may be noted that while he had obtained the above mentioned passport in the name of Ashraf Abdulla, S/o. Abdulla, with place of birth at Jokatte, Karnataka and date of birth as 08/02/1957, the furnished extract of admission register shows his name as Abdul Ashraf Moosari Kunnath, S/o. C.K Abdulla, date of birth 20/02/1966. It proves that he had obtained his first passport by submitting false details and documents thereto to grab the un-entitled benefits such as Visa meant for higher age group etc. Hence, passport obtained with false personal particulars cannot be considered as inadvertent mistake but it proves that the passport holder had committed offence under Section 2(1)(b) of Passports Act, 1967. It is a fit case to invoke the

power of revocation of the above passport.

4. Petitioner can correct his name and date of birth in passport by surrendering the same before the Passport issuing authority, along with his original school certificate/Birth certificate to prove the correct date of birth along with other relevant documents and sworn affidavit, explaining the circumstances of obtaining the passport with wrong name and date of birth. No application of the petitioner seems to be rejected on the ground that he had not furnished court order. On surrendering the same, Passport Authority will revoke the Passport under section 10(3)(b) of Passports Act, 1967, and impose penalty of Rs.5000/- under section 12(1)(b) of the same Act. He will, thereafter, be allowed to apply afresh with usual formalities.

5. As the petitioner's passport was obtained with wrong name and date of birth, he may surrender the passport with a detailed explanation in the form of sworn affidavit along with his credentials plus penalty of Rs.5,000/- so that the Passport Authority can permit him to apply for a passport. After completing all usual formalities a fresh passport (not a re issue passport) will be issued to him."

4. The learned counsel for the petitioner submits that, the petitioner is ready to satisfy a sum of Rs.5,000/- (Rupees Five thousand only) as pointed out from the part of the respondents and also is ready to submit a fresh application with all the relevant documents.

In the said circumstances, the petitioner is relegated to file an 'on-line' application for correction of date of birth, along with

an affidavit as above and the documents relied upon by the petitioner, also surrendering the existing passport before the concerned authority forthwith; on which event, the same shall be accepted and considered by the respondents, passing appropriate orders in accordance with law, within a period of 'one month' thereafter; subject to satisfaction of the penalty as aforesaid.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the respondents, for further steps.

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

sp