

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 6611 of 2015 (B)

PETITIONER(S) :

MUHAMMED KUTTY A.,
AGED 47 YEARS, S/O.ABDURAHIMAN A.,
RESIDING AT PARUTHOOLY HOUSE,
PLAKUTTY, R.E.C.P.O., KATTANGAL,
KOZHIKODE DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN.

RESPONDENT(S) :

1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI,
PIN - 110 001.
2. CONSULATE GENERAL OF INDIA,
INDIAN EMBASSY, RIYADH, PIN - 11564.
3. THE REGIONAL PASSPORT OFFICER,
KOZHIKODE, PIN - 673 001.

BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1: TRUE COPY OF RELEVANT PAGES OF THE PASSPORT NO. E9704523
ISSUED BY THE PASSPORT AUTHORITY, BANGALORE DATED
28/05/1995.

EXT.P2: TRUE COPY OF ABSTRACT OF THE ADMISSION REGISTER DATED
17/09/2012 ISSUED BY THE R.E.C. GOVERNMENT V.H.S.SCHOOL,
CHATHAMANGALAM.

EXT.P3: TRUE COPY OF ON LINE APPLICATION DATED 20/02/2015
FORWARDED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF ELECTION IDENTITY CARD NO. FZQ1913789 DATED
07/01/2003.

EXT.P5: TRUE COPY OF ADHAR CARD NO.849491289964 DATED 05/11/2013.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R.RAMACHANDRA MENON, J.

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Dated this the 19th day of March, 2015

JUDGMENT

The petitioner is the holder of the passport bearing No.E 9704523. The date of birth shown in the passport as '20.1.1962' which according to the petitioner is actually '11.1.1967'. The petitioner wants to effect correction of date of birth in the passport with reference to the entires in the relevant documents and accordingly, the petitioner approached the second respondent by filing necessary application. 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

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is liable to be intercepted and the petitioner is entitled to have the relief sought for.

3. The learned Central Government Counsel appearing for the respondents submits, that the petitioner can correct his name and date of birth in the 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. The version of the respondents are discernible from paragraphs 3, 6, 7 and 8 of the statement which read as follows:

3. The writ petitioner had obtained passport No.E9704523 dated 18.6.2005 from Embassy of India, Riyadh, in continuation of his previous passport bearing No:U054063 dated 28.5.1995 issued by the Embassy of India, Riyadh and X663629 dated 23.8.1985 issued by Regional Passport Office Bangalore.

6. With regard to the averments in Ground B, passport obtained with false personal particulars cannot be considered as correction cases or inadvertent mistakes, but it proves that the passport holder had committed offence under section 10(3) (b) of the Passports Act, 1967 and punishable under section 12 (1) (b) of the same Act. It may be noticed

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that petitioner had obtained his first passport in the year 1985 from Bangalore and obtained reissue passports in the year 1995 and 2005. It is very strange to see that, only after a long period of 30 years, he had noticed the mistake in his passport and wants to correct it. As his surname in the passport also different from the furnished extract of admission register, it is clear that, he had furnished a wrong date of birth along with other false personal particulars, to grab the un-entitled benefits such as Visa meant for higher age group etc. Hence his case attracts both section 10 (3)(b) and 12(1)(b) of Passports Act 1967

Section 10(3)(b) of Passport Act, 1967 reads as follows:

"The passport authority may impound or cause to be impounded or revoke a passport or travel document, if the passport or travel document was obtained by suppression of material information or on the basis of wrong information provided by the holder of the passport or travel document or any other person on his behalf."

Section 12(1)(b) of Passports Act, 1967 reads as follows:

"Knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority alter or attempts to alter or causes to alter the entries made in a passport or travel document, shall be punishable with

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imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both”.

His case is a fit one to invoke revocation of the above passport.

7. *Regarding the averments in Ground C, it is submitted that on checking the computer system, it is seen that no passport application of the applicant is pending for correcting his date of birth. He had not furnished any file number, but only an online receipt of the passport application registration in the system.*

8. *Regarding the averments in Ground D, the 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. On surrendering the same, passport authority would revoke the passport under section 10(3)(b) of Passports Act 1967 and impose penalty of Rs.5,000/- under section 12(1)(b) of the same Act. He will, thereafter, be allowed to apply afresh with usual formalities.*

The learned Central Government Pleader also submits that the petitioner will have to file an on-line application along with an affidavit explaining how the delay has occurred, also surrendering

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the existing passport.

4. 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 respondent, passing appropriate orders in accordance with law, within a period of 'three weeks' thereafter.

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

The writ petition is disposed of.

Sd/-

**P.R.RAMACHANDRA MENON,
JUDGE.**

rkc.