

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition No.11177 of 2015

P.Ponnarasan

... Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003
2. The Zonal Welfare Officer,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of second respondent in Su.Tu.Na.Ka.No.Ma.Su.A.(P.V.)/887/2015, dated 11.02.2015, quash the proceedings of the second respondent dated 11.2.2015 and consequently direct the respondents herein to enter the date of birth of the petitioner in the original record of birth of Corporation of Chennai, as 22.05.1990.

For Petitioner : Mr. M.Sivavarthanan
For Respondents : Mr. T.C.Gopalakrishnan

O R D E R

By consent of the learned counsel for both sides, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner claims that he was born on 22.05.1990 at Chennai and his date of birth entered so, in all his school records and driving licence issued by the jurisdictional Transport Officer also state that he was born on 22.05.1990, so also the voters identity card as well as PAN card issued by the Income Tax Authorities. However, the petitioner seeks to apply for passport and when he applied for the Birth Register Extract, to his shock and surprise, his date of birth has been noted as 23.11.1990, in the Birth and Death Extract Register maintained by the respondents, instead of 22.05.1990, and in this regard, he has submitted a representation for rectification of the same and it was rejected on 11.02.2015 stating that such a rectification cannot be done. Aggrieved over the same, the petitioner has filed this writ petition.

3. The learned counsel appearing for the petitioner has invited the attention of this Court to the typed set of documents and would submit that inadvertently, the date of birth of the petitioner was wrongly entered as 23.11.1990, instead of 22.05.1990 in the records maintained by the Corporation of Chennai and in the light of the overwhelming documents to show that he was actually born on 22.05.1990, there cannot be any impediment on the part of the respondents to alter his date of birth accordingly.

4. Per contra, the learned Standing Counsel appearing for the respondents has invited the attention of this Court to Appendix 22, Rule 13 of Chennai City Municipal Corporation Act, 1919 and would submit that the remedy open to the petitioner is to approach the jurisdictional Magistrate and get an order.

5. This Court has carefully considered the rival submissions made by the learned counsel for both sides and perused the materials available on record.

6. It is relevant to extract Appendix 22, Rule 13 of the said Act, which reads thus:-

"Appendix 22 - Rules Relating to the Registration of Births and Deaths in Chennai City -

...
13. (1) Any clerical error or any omission of any particular in any entry relating to a birth or death already in the register of births or of deaths or any error in any entry relating to the cause of death in the register of deaths or any multiple registration of a birth or of a death shall be corrected or rectified by the checking officer (Commissioner of Health Officer of the Corporation) if the error or omission is discovered by him and by the Registrar with the previous approval of the Checking Officer if the error or omission is discovered by the Registrar:

Provided: that no entry shall be corrected under this rule, more than a year after it is made except with the previous sanction of the Commissioner.

(2) Any other error in the said registers shall be corrected under the orders of a Magistrate (not below the rank of Chief Presidency Magistrate, Chennai). An order shall not be made unless the Magistrate is satisfied, on obtaining a report from the Commissioner and after making such enquiry as he may consider necessary, that the original entry is inaccurate.

(3) (a) All, corrections under sub-rules (1) and (2) shall be made by drawing a line through the original entry (but not so as to render it illegible) and writing the new entry above it.

(b) Every correction or rectification made under sub-rule (1) shall be initialled and dated by the Registrar if

the error or omission is discovered by him and by both the Registrar and the checking officer if the error or omission is discovered by the Checking Officer.

(c) Corrections ordered by a Magistrate under sub-rule (2) shall be initialled and dated by both the Registrar and Checking Officer.

(d)

7. As per sub-rule (2) of Rule 13, Appendix 22, of the said Act, any other error in the registers shall be corrected under the orders of the Magistrate (not below the rank of Chief Presidency Magistrate, Chennai) (now Chief Metropolitan Magistrate, Chennai).

8. In the light of the specific statutory rule, cited supra, the petitioner is at liberty to approach the Court of the learned Chief Metropolitan Magistrate, Egmore, Chennai, by filing necessary application, in accordance with law, within a period of two weeks from the date of receipt of a copy of this order and if the Application is in order, the said Court is directed to entertain the same and pass orders, in accordance with law, as expeditiously as possible, and not later than eight weeks from the date of receipt of a copy of this order.

9. This writ petition is disposed of with the above said observations. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

srk

सत्यमेव जयते

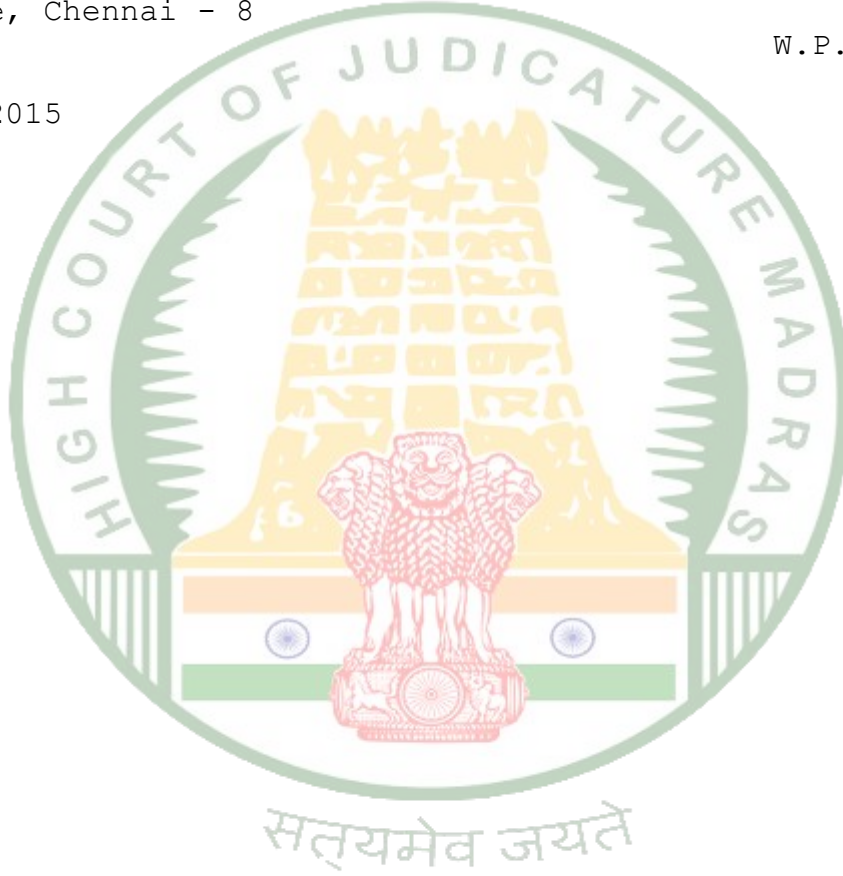
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To

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003
2. The Zonal Welfare Officer,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003
3. The Chief Metropolitan Magistrate,
Egmore, Chennai - 8

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