

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 14-07-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.19499 OF 2015

Barkat Syed Abdul Majid ... Petitioner

-vs-

1.Regional Passport Officer,
Coimbatore,
Corporation Commercial Complex,
First Floor,
Opposite to Thandu Mariamman Koil,
Avinashi Road,
Coimbatore-641 018.

2.Regional Passport Officer,
Regional Passport Office,
Royala Towers,IV Floor
Anna Salai,
Chennai-600 002.

... Respondents

Writ Petition has been filed, praying for issuance of a writ of mandamus, directing the first respondent to issue the petitioner an Indian Passport pursuant to petitioner's passport application, dated 28.02.2014, in File No.CB 1077526963514, by causing appropriate verification of records available with the second respondent relating to her first Indian Passport bearing No.N 466284 issued on 12.03.1993 by the second respondent.

For petitioner : Mr.A.S.Vijayaragavan

For respondents : Mr.SU.Srinivasan,
Asst.Solicitor General of India.

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The petitioner would state that she was born to M/s.A.Abdul Majid and Gouhar Jhon on 19.12.1962 and christened as Barkathunnisa. In the Register of Births maintained by the Corporation of Coimbatore also, her name has been entered as above, so also her date of birth. She had her schooling in St.Joseph's Matriculation Higher Secondary School, Coimbatore, from Standards I to VI and discontinued thereafter. She was married to Dr.E.M.Syed Batcha and, out of their wedlock, she begot a daughter, by name, Tabbu Syed Batcha, who is married to one Sajith Ahammad. After marriage, the petitioner changed her name as Barkat Syed Abdul Majid.

3. The petitioner would further state that her husband Syed Batcha is employed in Saudi Arabia and, to visit him, she applied for an Indian Passport, whereupon, the first respondent issued her Passport bearing No.N 466284, dated 12.03.1993, which was valid for a period of ten years i.e., up to 11.03.2003, and, in the said passport, her date of birth was correctly mentioned as 19.12.1962. She, for the purpose of visiting her husband, travelled to Saudi Arabia many a time and, since the said passport expired on 11.03.2003, she applied for renewal of the same through online with the help of a travel agent at Coimbatore, as she was studied only up to VI Standard and not conversant with the adoption of modern technology, following which, she was issued with a fresh passport bearing No.E 7957065 on 13.02.2004, valid up to 12.02.2014.

4. It is the specific case of the petitioner, that in the passport bearing No.E 7957065, a mistake had crept in in the date of birth as 19.12.1967, instead of the correct date of birth 19.12.1962. As the passport bearing No.E 7957065 expired on 12.02.2014, she once again applied for issuance of new passport through Passport Seva Kendra, Coimbatore, on 28.02.2014 in File No.CB.1077526963514, and she also paid necessary fee therefor.

5. The petitioner would state that she was called upon to produce documentary evidence as regards her date of birth as well as residence, which she produced; however, to her shock and surprise, the first respondent sent a communication, dated 08.08.2014, directing her to apply for passport afresh with a Court Declaration and closed the application dated 28.02.2014 submitted by her and, aggrieved over the closure of the application for issuance of passport, she has come forward to file this Writ Petition.

6. Mr.A.S.Vijayaragavan, learned counsel for the petitioner, would contend that the petitioner is professing Islam and she has studied only up to VI Standard and, on account of her family background, coupled with the fact that she completed only middle level education, she was not conversant with the usage of modern technology, and since she applied for passport online with the help of a travel agent, while making entry, her date of birth was wrongly fed as 19.12.1967, instead of 19.12.1962, and the first respondent, while processing the said application, did not take note of the particulars found in the earlier passport and, thereafter, the said passport had expired and the petitioner complied with all the formalities for issuance of a fresh passport on 28.02.2014 and, at that juncture, on scrutiny, the first respondent has noticed the said mistake and closed the application, granting liberty to the petitioner to apply afresh, after obtaining a Court order.

7. The sum and substance of the contention of the learned counsel for the petitioner is, that, since the mistake is purely due to inadvertence without any malice or oblique motive, appropriate direction may be issued to the first respondent to issue fresh passport, mentioning the date of birth of the petitioner as 19.12.1962.

8. Per contra, Mr.SU.Srinivasan, learned Assistant Solicitor General of India, has drawn the attention of this Court to the counter affidavit filed on behalf of the respondents and would submit that the petitioner has applied for re-issuance of passport with date of birth as 19.12.1967 only, but, on verification, it was found that her date of birth was 19.12.1962, and, as per the existing rules of the Passports Act, if the difference in date of birth is more than two years, a court order to that effect is necessary. He would further submit, that admittedly, in this case, the difference in date of birth is more than two years i.e., five years, and hence, the petitioner was rightly advised to approach the Court to get a declaratory order and, accordingly, he prays for dismissal of the Writ Petition.

9. This Court has carefully considered the rival submissions and also perused the materials available on record.

10. Originally, the petitioner was issued with a passport bearing No.N 466284, dated 12.03.1993, which was valid up to 11.03.2003, and, in the said passport, her date of birth was correctly mentioned as 19.12.1962. The petitioner, on expiry of the said passport, applied for renewal, which was considered, and she was issued with a fresh passport bearing No.E 7957065 on 13.02.2004, which was valid up to 12.02.2014. But, unfortunately, a mistake with regard to date of birth of the petitioner had crept in in the said passport, which was neither noticed by the petitioner nor the respondents. After expiry of the said passport, the petitioner once again applied for issuance of a fresh passport and, at that juncture only, the mistake with regard to date of birth was found out and the respondent did not process the application on the ground that since the difference in date of birth is more than two years, the petitioner has to get a declaratory order from the court concerned.

11. This Court has also gone through the typed set of documents, which would disclose that the petitioner was born on 19.12.1962, and not on 19.12.1967. It is not out of place to mention here that the petitioner has studied only up to VI Standard and it is her stand that while filling up the application form online, she was helped by a travel agent and, therefore, the mistake would have been occurred. This Court finds considerable force in the said stand of the petitioner.

12. Concedingly, the petitioner is not in employment and, in fact, in the fresh passport to be issued, she wants her date of birth to be entered as 19.12.1962, but not 19.12.1967, which is a reduction of five years. It is also pleaded by the petitioner that her husband is employed in Saudi Arabia and, at present, he is suffering from various health complications and, therefore, her presence is absolutely necessary to look after him, and that on account of non-issuance of passport by the respondents, she is unable to travel to Saudi Arabia to take care of her husband.

13. This Court, taking into consideration the peculiar facts and circumstances of the case, is of the view, that interest of justice would be subserved, if the first respondent is directed to process the application submitted by the petitioner.

14. Therefore, in the light of above facts and circumstances, the petitioner is at liberty to approach the first respondent with the original documents, indicating her date of birth as 19.12.1962, and the first respondent, on such approach of the petitioner and on verification of the details, shall process the application, dated 28.02.2014, submitted by the petitioner in File No.CB 1077526963514, for issuance of the passport, in accordance with law, and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

15. Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

dixit

To

1.Regional Passport Officer,
Coimbatore,
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First Floor,
Opposite to Thandu Mariamman Koil,
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2.Regional Passport Officer,
Regional Passport Office,
Royala Towers,
Anna Salai,
Chennai-600 002.

2 cc to Mr..A.S.Vijayaragavan, Advocate Sr.No.355564

1 cc to Mr.SU.Srinivasan, , Advocate Sr.No.36377

W.P.No.19499/2015

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