

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2015

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.26693 of 2015

Mohammed Sherief

... Petitioner

Vs.

Regional Passport Officer,
Regional Passport Office,
Rayala Towers
No.158/785, Anna Salai,
Chennai - 600 002.

... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the respondent to correct the petitioner's date of birth from 25.06.1963 to 06.01.1972 in the petitioner's passport.

For Petitioner : Ms.Shaikh Mehrunisa
For Respondent : Mr.D.Simon, CGSC

O R D E R

The petitioner has come forward to file this writ petition seeking a writ of mandamus directing the respondent to correct the date of birth of the petitioner from 25.6.1963 to 6.1.1972 in the petitioner's passport.

2. The original passport of the petitioner was obtained in passport No.SO84481 dated 26.4.1994 issued at CGI, Zeda. Thereafter, the petitioner sought for re-issue of passport in the year 2006. It was accordingly issued by the Regional Passport Office, Chennai with the date of birth as 25.6.1963.

3. The petitioner applied for change of date of birth in the passport from 25.6.1963 to 6.1.1972 enclosing the birth certificate registered on 9.2.1972. The request made by the petitioner was not considered on the ground that as per the revised guidelines issued by the Ministry of External Affairs dated 26.11.2015, such an application shall be made within a period of five years from the date of issuance of the 1st passport.

4. Even according to the respondent, the official memorandum dated 26.11.2015 would govern the case. In this case, the petitioner has applied before the issuance of the said Official Memorandum. However, the same is yet to be considered by the respondent, though a counter affidavit has been filed by placing reliance upon the same.

5. In the Official Memorandum dated 26.11.2015, an exception has been carved out qua the cases in which the initial passport was issued when a person was a minor. Thus, the period of five years limitation is not applicable to such cases. The following is the relevant clause mentioned in the official memorandum dated 26.11.2015:

''(iii) The cases where the applicant comes to PIA for change/correction with regard to date of birth in the Passport after a period of five years from the date of issue of passport with alleged wrong date of birth, no such request shall be entertained/accepted by the PIA and be rejected out rightly.

However, an exemption in this regard may be given to an applicant who was minor at the time when passport with alleged wrong date of birth was issued to him. As and when such an applicant after attaining the age of majority applies for the passport with the request to change the date of birth in the passport issued to him when he was minor, the PIA irrespective of the duration of the issuance of passport may accept his case for consideration and if is satisfied with the claim and document(s) supplied by the applicant, may accept his request for change of date of birth in the passport without imposition of any penalty.

(iv) In no way, the Passport Authority will relegate the applicant to obtain the declaratory court order to carry out changes with regard to date of birth in the passport, as the Passport Authority subject to the condition that the case has been submitted by the applicant within the stipulated limit of 5 years from the date of issuance of passport (except the cases of minor passport holder as detailed in para 5(ii) above) would now be eligible to accept the genuine cases irrespective of the difference of dates of birth.''

6. Therefore, the stand taken by the respondent in this regard cannot be accepted for non-consideration of the request of the petitioner, since admittedly the initial passport was issued when the petitioner was a minor. Thus, the question of delay does not arise.

7. The only other issue for consideration is, as to whether the claim of the petitioner is clerical or technical mistake. This is a matter, which has to be considered by the respondent. Thus, without expressing anything on the same, the respondent herein is directed to pass appropriate orders on the application of the petitioner seeking correction of date of birth in his passport and to decide as to whether the claim made by the petitioner is clerical or technical mistake and he is entitled for rectification or correction. Such a decision will have to be made by the respondent within a period of six weeks from the date of receipt of copy of this order.

The writ petition is disposed of accordingly. No costs.
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-s/d-
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To

Regional Passport Officer,
Regional Passport Office,
Rayala Towers
No.158/785, Anna Salai,
Chennai - 600 002.

+ 2 ccs to Mr. Shaikh Mehrunnisa, Advocate SR 65695

+ 1 cc to Mr. Dr. D. Simon, CGSC Advocate SR 65809

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