

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

WP.No.10906 of 2016

K.Sowkath Ali

Petitioner

Vs

The Regional Passport Officer
Government of India, 158, Anna Salai
Chennai-2

Respondent

Prayer:- This Writ Petition is filed to issue a Writ of Mandamus, directing the Respondent to correct his date of birth as 11.10.1966, instead of 08.08.1963 in his old Passport, bearing No.R712813, dated 19.04.1994, which expired on 18.04.2004 and to reissue a new Passport, based on the application dated 19.01.2016 of the Petitioner made through online.

For Petitioner : Mr.C.B.Muralikrishnan

For Respondent : Mr.G.Hema, CGSC

ORDER

This Writ Petition is filed to issue a Writ of Mandamus, directing the Respondent to correct his date of birth as 11.10.1966, instead of 08.08.1963 as given in his old Passport, bearing No.R712813, dated 19.04.1994, which expired on 18.04.2004 and to reissue a new Passport, based on the application dated 19.01.2016 of the Petitioner made through online.

2. The facts, which are necessary for disposal of this Writ Petition, are that the Petitioner has been residing at No.31/7, 2nd Street, Vinayagapuram, Arumbakkam, Chennai-106, for more than 25 years and doing the real estate business. In the year 1994, originally the Petitioner was issued with the Passport bearing No.R712813, dated 19.04.1994. Since the said Passport of the Petitioner expired on 18.04.2004, he made a renewal application dated 19.01.2016 for renewal of the same through online and the date of personal appearance of the Petitioner was fixed on 18.02.2016. On verification of the records produced by the Petitioner in the personal interview, the Passport Issuing Authorities informed that the date of birth of the Petitioner was given as 08.08.1963 in the original passport, but whereas, in the records produced for renewal of the passport in the personal

interview, it is shown as 11.10.1966 and stating so, rejected the renewal application of the Petitioner. Thereafter, the Petitioner also made a representation dated 08.03.2016 to the Respondent for passing appropriate orders. But, till date, no action has been taken by the Respondent. Hence, this Writ Petition has been filed for the relief as stated above.

3. The learned counsel for the Petitioner has submitted that since the Petitioner had not travelled anywhere other than India, the Passport of the Petitioner was not used and that the Passport Issuing Authorities made a clerical mistake regarding his date of birth, while issuing the original Passport in the year 1994 and that all the records produced by Petitioner, particularly, the Driving Licence dated 06.11.1987 and the Aadhar Card of the Petitioner clearly established his date of birth as 11/10/1966 and hence, prayed this court to direct the Respondent to reissue a new Passport, correcting his date of birth as 11/10/1966, instead of 08.08.1963.

4. On the other hand, the learned Standing Counsel for the Respondent has submitted that the Petitioner had given a wrong information regarding his date of birth in the year 1994, while obtaining the Passport bearing No.R712813 dated 19.04.1994 and that even after obtaining the Passport, he did not take any steps to correct his date of birth immediately and hence, the Petitioner is not entitled to get such a remedy, after a lapse of more than 30 years and that in view of the guidelines with regard to change/correction of dates of birth entries in the Passport of an Applicant already held by him stipulated in the Office Memorandum dated 26.11.2015 of the Ministry of External Affairs, Government of India, the Petitioner has no locus standi to make such a request for change or correction in the date of birth after lapse of a period of five years from the date of issue of the Passport.

5. This court heard the learned counsel on either side and considered their submissions and also the perused materials available on record, including the Office Memorandum dated 26.11.2015, the Corrigendum dated 13.02.2016 issued by the Ministry of Affairs, Government of India and the Driving Licence and the Adhar Card of the Petitioner.

6. Admittedly, the date of birth of the Petitioner is given as 11/10/1966, both in the Driving Licence and the Adhar Card of the Petitioner. It is also seen from the Corrigendum dated 13.02.2016 that Clause 4(ii) has been amended, deleting the restricting clause. In such circumstances, this Court is of the considered view that it would be appropriate to direct the Respondent to conduct a fresh enquiry with regard to change of date of birth of the Petitioner and pass appropriate orders.

7. Accordingly, the Petitioner is permitted to submit a fresh application, enclosing necessary documents in support of his

claim, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On filing of such a representation, the Respondent is directed to conduct an enquiry and pass appropriate orders, after affording due opportunity of personal hearing to the Petitioner, on merits and in accordance with law, particularly, in the light of the Office Memorandum dated 26.11.2015 and the Corrigendum dated 13.02.2016 issued by the Ministry of Affairs, Government of India, within a period of four weeks thereafter. It is also made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the Petitioner and it is for the Respondent to pass appropriate orders purely on merits and in accordance with law.

8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

Srcm

To:

The Regional Passport Officer,
Government of India, 158, Anna Salai
Chennai-2

1 cc to Mr.C.B. Muralikrishna, Advocate, Sr. 27004

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LRS (CO)
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