

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 11.02.2016

Pronounced on :18-02-2016

Coram

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Writ Petition No. 21593 of 2014

Kather Meeran

.. Petitioner

Versus

The Regional Passport Officer
Government of India
Ministry of External Affairs
4th Floor, Tower III
No.158, Anna Salai
Chennai - 600 002

.. Respondent

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus directing the respondent office to make necessary correction in respect of date of birth column of the petitioner's old passport No.K2505033 dated 02.02.2012 as 12.07.1979 instead of 19.02.1974, Madurai, Tamil Nadu and its online application dated 17.07.2014.

For Petitioner :Mr. P.N. Peruvazhuthi

For Respondent :Mr. J. Madanagopal Rao
Central Government Standing Counsel

ORDER

The petitioner has come forward with this writ petition praying for issuance of a Mandamus to direct the respondent to make necessary correction with respect to the entries relating to his date of birth as 12.07.1979 instead of 19.02.1974 in the passport issued to him bearing No.K2505033.

2. According to the petitioner, he is a native of Tirunelveli where he born to his parents Mr. Peer Mohamed and Mrs. Hameeda on 12.07.1979. It is further contended by the petitioner that his father had applied for obtaining passport for him through an agent by furnishing all the relevant particulars. However, by oversight, his date of birth was wrongly entered in his passport as 19.02.1974 instead of 12.07.1979 issued by the passport authorities at Madurai on 02.12.2012 vide passport No.K2505033 bearing File No. MA1077841547314 which is valid upto 01.02.2022. After receipt of the passport, the petitioner did not notice the incorrect entry made with respect to his date of birth. When he intended to go abroad he had noticed the incorrect entry made

in his passport. To rectify the mistake crept in the old passport, the petitioner submitted an application on line 17.07.2014. The petitioner also went to the office of the respondent on 22.07.2014 and requested to correct the mistake crept in the date of birth column in the passport. In support of his application, the petitioner also enclosed the certificate issued by the school authorities. However, the officials of the respondent informed the petitioner to approach the competent Court of law and to get a declaration declaring his correct date of birth. In such circumstances, the petitioner has approached this Court with this writ petition.

3. The respondent has filed a counter affidavit contending inter alia that the petitioner has suppressed many material facts and has filed this writ petition. According to the respondent, the petitioner applied for passport on 18.07.1996 with the Regional Passport Office, Tiruchirapalli, in which he had indicated his date of birth as 19.02.1974. Along with the application, the petitioner has enclosed the transfer certificate issued on 12.06.1989 by the Government High School wherein also the date of birth of the petitioner was mentioned as 19.02.1974. The passport authority also, after causing necessary verification and after complying with the formalities, issued passport bearing A1827862 dated 26.08.1996 in favour of the petitioner which was valid till 25.08.2006. Thereafter, the petitioner applied for re-issue of passport with Embassy of India, Riyadh, Saudi Arabia on 06.04.2006 in which also he has declared his date of birth as 19.02.1974 and obtained the passport bearing No.F 1575455 dated 17.04.2006 having validity till 16.04.2016. Once again the petitioner has applied for re-issue of passport with Passport Office, Madurai on 30.12.2011 to incorporate the change in the residential address and to include the name of his spouse. In this application also, the petitioner has declared his date of birth as 19.02.1974 and obtained a fresh passport on 02.02.2012 which was valid till 01.02.2022. According to the respondent, in all the three earlier applications, the petitioner has declared his date of birth as 19.02.1974. While so, in the present application submitted for re-issuing the passport for change of address, the petitioner has indicated his date of birth as 12.07.1979. To substantiate his contention to alter the date of birth, the petitioner submitted a duplicate transfer certificate dated 25.02.2014 issued by Thilagar Vidyalayam Higher Secondary School, Kallidaikurichi. The transfer certificate produced by the petitioner on 25.02.2014 is contrary to the earlier transfer certificate produced by him from Government High School on 12.06.1989. According to the respondent, notwithstanding the difference in the date of birth, the name and father's name of the petitioner also differs in both the transfer certificates produced by him. In the first certificate, the name of the father is mentioned as "Beer Mohamed". Even in the applications submitted earlier, the

petitioner has declared his name as Kather Meeran, Son of Beer Mohamed. Whereas, in the second transfer certificate issued by another school, the name of the student i.e., petitioner is entered as "Sheik Kader Meeran" son of S. Peer Mohamed. Therefore, according to the respondent, the petitioner has submitted two transfer certificates issued by two different schools. Therefore, the veracity and genuineness of those certificates have to be gone into. In such circumstances, the respondent prayed for dismissing the writ petition.

4. The learned counsel for the petitioner vehemently contended that when the petitioner has produced various documents, including the certificate issued by the school authorities in support of proof of his age, the respondent, instead of considering it has directed him to approach the competent Court to get a declaration. The respondent is empowered to pass appropriate orders as contemplated under the Indian Passports Act, however, for the reasons best known, the respondent refused to alter the date of birth entry in his passport. According to the learned counsel for the petitioner, the certificate issued by the school authorities is a public document and it's genuineness cannot be questioned by the respondent. When such a certificate has been produced by the petitioner, the respondent is not justified in refusing to accede to the request made by the petitioner for altering the entry relating to his date of birth in the passport issued to him. In support of his contentions, the learned counsel for the petitioner relied on an order dated 25.09.2014 passed in WP No. 22302 of 2014 (Suba Shri vs. The Regional Passport Officer, Chennai - 600 002) wherein this Court, in similar circumstances, disposed of the writ petition with a direction to the respondent to consider the plea of the petitioner for altering the place of birth entered in her passport. Relying on this order, the learned counsel for the petitioner prayed for allowing the writ petition as prayed for.

5. Per contra, the learned Central Government Standing counsel appearing for the respondent opposed the writ petition. According to the learned Central Government Standing Counsel, the petitioner has suppressed many material facts and has approached this Court with unclean hands. Earlier, the petitioner approached the passport authorities in India and abroad and at the time of making applications, he has mentioned his date of birth as 19.02.1974 on the strength of a transfer certificate issued by the school where he studied. While so, in the present application seeking to alter his date of birth, he relied on a different transfer certificate than the one produced earlier. When there are two transfer certificates produced by the petitioner which are inconsistent with each other, the respondent is wholly justified in not entertaining his request for altering his date of birth in the passport issued to him. Therefore, the learned Central Government Standing Counsel prayed for dismissing the writ petition.

6. I heard the learned counsel for the petitioner as well as the learned Central Government Standing Counsel for the respondent. On perusal of the materials placed on record, including the counter affidavit, it is clear that the petitioner has suppressed many material particulars while filing this writ petition. As per the counter affidavit of the respondent, earlier, the petitioner applied for issuance of passport on three occasion after it's validity has been expired. On all those occasion, in the application for issuance of passport or renewal, as the case may be, the petitioner has indicated his date of birth as 19.02.1974 and obtained the passport. However, in the present application seeking to alter the date of birth, the petitioner relied on a transfer certificate issued by Tilagar Vidyalayam Higher Secondary School, Kalladikurichi. As rightly pointed out by the learned Central Government Standing Counsel, the petitioner has produced two transfer certificates issued by two different schools. In both the transfer certificates, the entries relating to the date of birth and name of the father of the petitioner are different and not in consistent with each other. While so, the respondent is right in refusing to entertain the request of the petitioner for altering his date of birth in the passport issued to him.

7. The learned counsel for the petitioner relied on an order dated 25.09.2014 passed in WP No. 22302 of 2014 (Suba Shri vs. The Regional Passport Officer, Chennai - 600 002). In that case, the petitioner therein sought for changing the place of her birth on the strength of the birth certificate issued by the Oulgaret Municipality, Puducherry. This Court, finding that the place of birth entered in the passport of the petitioner i.e., Nellikuppam is erroneous and contrary to the date of birth certificate issued in her favour, directed the respondent therein to consider the claim of the petitioner for entering the correct place of birth in her passport. In this case, as mentioned above, the petitioner has produced two different transfer certificates in support of his claim for alteration of date of birth and they are inconsistent with each other with respect to the date of birth as well as the name of the petitioner's father. Therefore, the decision relied on by the counsel for the petitioner cannot be made applicable to the facts of this case.

8. It has to be mentioned that in the affidavit filed in support of this writ petition, the petitioner has suppressed about the applications submitted by him earlier. Therefore, it can be concluded that the petitioner has approached this Court with unclean hands. It is well settled that a party who approaches the Court has to disclose all the material particulars within his or her knowledge so as to enable the Court to properly appreciate the same to do complete and effective justice. As mentioned above, the petitioner has suppressed many material particulars and those particulars were brought to the notice of this Court only in

the counter filed by the respondent. Therefore, this Court is not inclined to grant the relief sought for in this writ petition. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Regional Passport Officer
Government of India
Ministry of External Affairs
4th Floor, Tower III
No.158, Anna Salai
Chennai - 600 002

+1cc to Mr.P.N. Perurazhuthi, Advocate, S.R.No.10341
+1cc to Mr.J. Madanagopal, Advocate, S.R.No.10663

SAI (CO)
EU(03/03/2016)

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