

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.24936 of 2015
and
M.P.No.1 of 2015

G.Farook

... Petitioner

vs.

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

... Respondent

Writ petition has been 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 particularly in the petitioner's old Passport No.V184813, dated 13.02.1984 issued at Chennai and expired on 12.02.1989 and to reissue the new passport based on online application dated 20.07.2015, based on school certificate issued by the competent authority i.e., the School certificates, the date of birth column may corrected as 03.04.1962 instead of 03.04.1959.

For Petitioner : Mr.P.N.Peruvazhuthi

For Respondent : Mr.A.Murugan

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondent to correct his date of birth as 03.04.1962, instead of 03.04.1959 in his old Passport bearing No.V184813 dated 13.02.1984, which expired on 12.02.1989 and to reissue new passport, based on the application dated 20.07.2015 made by him through on-line.

2. It is the case of the petitioner that he had a valid passport bearing No.V184813 dated 13.02.1984, in which, his date of birth was wrongly mentioned as 03.04.1959 instead of

03.04.1962 and he did not notice the same immediately. The said passport expired on 12.02.1989. Thereafter, the petitioner came to know about the said mistake and made online application dated 20.07.2015 for renewal and re-issuance of new passport. After verifying his application, the respondent directed the petitioner to produce a court order to rectify the said mistake in the passport. Therefore, the petitioner has no other option except to approach this court with the present writ petition for the above stated relief.

3. When the matter came up for consideration, learned counsel for the petitioner produced a copy of the birth certificate dated 5.11.2015 issued by the competent authority, showing the date of birth of the petitioner as 03.04.1962, based on which, he sought for a positive direction to the respondent to correct the date of birth of the petitioner and issue a new passport to the petitioner.

4. On the other hand, a counter affidavit has been filed by the respondent stating interalia as follows:

(i) The petitioner had given wrong information regarding his date of birth in the year 1984 and obtained the passport bearing No.V184813 dated 13.02.1984. Even after obtaining the passport, he did not take any steps to correct his date of birth immediately, but he approached the respondent, after a lapse of more than 30 years and hence, there is an inordinate delay on the part of the petitioner in seeking such remedy.

(ii) In pursuance of the order of the High court of Kerala at Ernakulam in WP (C) No.9073 of 2015(H) dated 23.6.2015 (Jayakumar v. Union of India), the CPV Division, Ministry of External Affairs, New Delhi vide office memorandum No.VI/401/2/5/2001 dated 26.11.2015 had issued revised guidelines regarding change/correction in date of birth already entered in the passport. As per clause (iii) of para 4 of the aforesaid office memorandum, no such request for change/correction in date of birth after a period of five years from the date of issue of passport with alleged wrong date of birth shall be entertained/accepted by the Passport Issuing Authority, which is reproduced as follows:

"..(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 outright....."

(iii) However, it is stated by the respondent in para 8 of the counter affidavit that without prejudice to the said contentions, if the petitioner accepts for the passport being issued with the same date of birth as 03.04.1959, without any corrections to be made, then this office is obliged to process the same.

5. I have considered the submissions made on both sides and perused the materials placed before this court.

6. Admittedly, the petitioner has obtained a birth certificate from the competent authority to the effect of his date of birth as 03.04.1962. In such circumstances, this Court is of the view that it would be appropriate to direct the respondent to conduct enquiry and pass appropriate order with regard to change of date of birth of the petitioner.

7. Accordingly, the petitioner is permitted to submit a fresh representation 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 representation, the respondent shall conduct enquiry and pass appropriate order on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of four weeks thereafter. It is 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. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

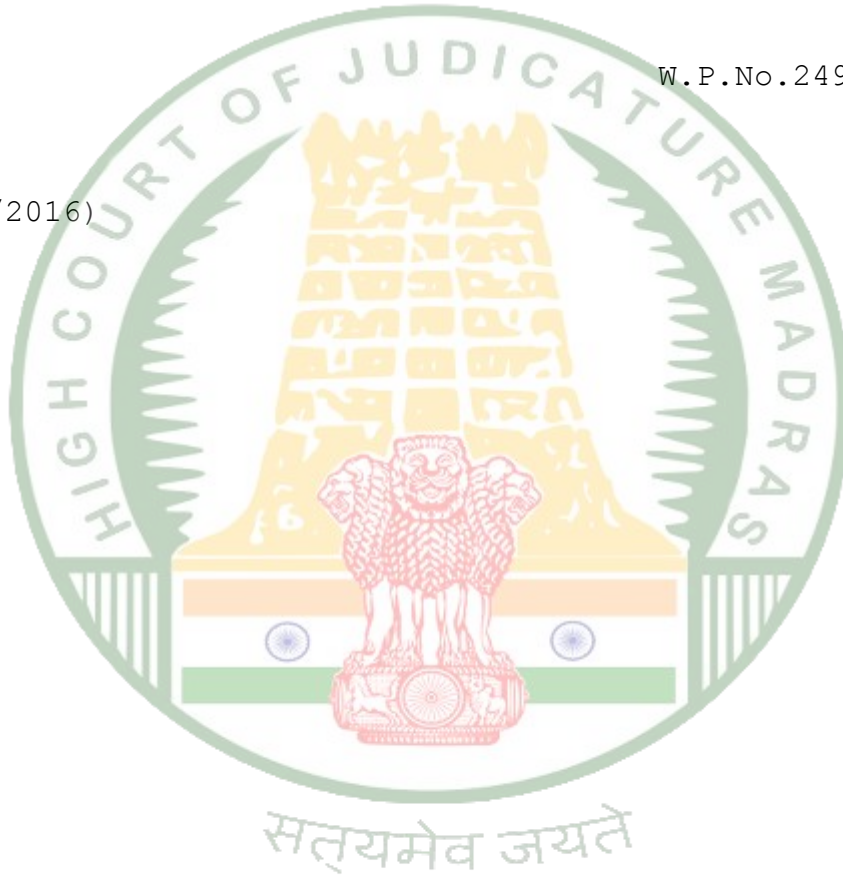
To

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

+1cc to M/S.P.N.Peruvazhuthi, Advocate, S.R.No.10115
+1cc to M/S.A.Murugan, Advocate, S.R.No.10034

W.P.No.24936 of 2015

rsk(CO)
srg(04/03/2016)



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