

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.21565 of 2016
and
W.M.P.No.18442 of 2016

R.Ananda Babu

... Petitioner

Vs.

1.The Secretary,
The State Government
Examination Commission,
College Road,
DPI Campurs,
Chennai - 6.

2.The District Educational Officer,
Chennai North,
Chennai - 8.

3.The Head Master,
W.P.A. Soundarapandian Higher
Secondary School,
Ayanavaram,
Chennai - 23.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ ***of Certiorified mandamus calling for the records relating to the proceedings of the 1st respondent in Na.Ka.No.001519/B7(2)/2016 dt.20.5.2016 and quash the same, further directing the 1st respondent to made a correction on the petitioner's date of birth as 3.9.1994 instead of 3.4.1994 in the X mark statement based on the Birth Certificate issued by the competent authority or any other suitable order may deem fit and proper.**

For Petitioner : Mr.K.Sathish Kumar

For Respondents: Mr.A.Rajaperumal,
Government Advocate [R1 & R2]

O R D E R

The petitioner would state that he was born on 03.09.1994 at C.W.C. Pulianthope, Chennai -12 and he was also issued with a birth certificate, vide certificate No.B4846056196, which in turn based on Registration No.COC/1994/03/041/000869/0. The petitioner had joined Ayanpuram Nadar Uravinmurai Sangam's W.P.A. Soundarapandian Higher Secondary School, Ayanpuram, Chennai -23 and at the time of admission, his date of birth has been wrongly entered as 03.04.1994 instead of 03.09.1994 and the said mistake continued and even in the SSLC Mark list also, the date of birth has been wrongly mentioned as 03.04.1994 and so also in Higher Secondary Course mark certificate. The petitioner had applied for passport and then only became aware that instead of mentioned his date of birth as 03.09.1994, it has been wrongly mentioned as 03.04.1994 and therefore, the petitioner has submitted a representation to the respondents and since no orders have been passed, had approached this Court by filing W.P.No.12194 of 2016 and this Court, vide order dated 01.04.2016, permitted the petitioner to submit a fresh representation for correction of date of birth and on receipt of the same, the concerned official was directed to give a disposal within a stipulated time frame. Accordingly, the respondent, taking into consideration the said order, has passed the impugned order dated 20.05.2016 stating that whatever date of birth entered in the S.S.L.C. Mark list is final and there is no rule for changing the date of birth and therefore, rejected the request made by the petitioner and challenging the legality of the said order, the petitioner came forward to file this writ petition.

2. The learned counsel appearing for the petitioner vehemently contended that though the date of birth was correctly given at the time of admission in the said school, it was wrongly entered and therefore, the second respondent is duty bound to enter the correct date of birth and she cannot cite any technical reason to reject the said request and prays for appropriate orders.

3. Per contra, Mr.A.Rajaperumal, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 2 would submit that the remedy open to the petitioner is to approach the Registrar under Section 15 of the Tamil Nadu Registration of Births and Deaths Act, 1969 r/w. Rule 11 of the Tamil Nadu Registration of Births and Deaths Rules, 2009 and therefore, this writ petition is not maintainable and prays for dismissal of this writ petition.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.

5. It is relevant to extract Section 15 of the Tamil Nadu Registration of Births and Deaths Act, 1969 and Rule 11 of the Tamil Nadu Registration of Births and Deaths Rules, 2009:

"Section 15. Correction or cancellation of entry in the register of births and deaths._ If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.

Rule 11. Correction or cancellation of entry in the register of births and deaths under Section 15._ (1) If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him and if the register is in his possession, the Registrar shall enquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or cancelling the entry) as provided in Section 15 and shall in the case of local authorities specified in column (1) of the Table below, send an extract of the entry showing the error and how it has been corrected to the officer specified in column (2) thereof.

TABLE

Local Authorities (1)	Officers (2)
Village Panchayat	Village Panchayat President
Town Panchayat	Executive Officer
Cantonment	Executive Officer
Municipality	Commissioner
Corporation	Commissioner
Neyveli Lignite Corporation	Chief Health Officer

(2) In the case referred to in sub-rule (1), if the register is not in his possession, the Registrar shall make a report to the Officer specified in the Table in Sub-rule(1) and call for the relevant register and after enquiring into the matter, if he is satisfied that such error has been made make necessary correction.

(3) Any such correction as mentioned in sub-rule (2) shall be countersigned by the officer specified in the Table in sub-rule (1) in this behalf when the register is received from the Registrar.

(4) If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case.

(5) Notwithstanding anything contained in sub-rules (1) and (4), the Registrar shall make a report of any correction of the kind referred to therein giving necessary details to the officer specified in the Table in sub-rule (1).

(6) If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been fraudulently or improperly made, he shall make a report giving necessary details to the officer authorised by the Chief Registrar by general or special order in this behalf under Section 25 and on hearing from him take necessary action in the matter.

(7) In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information under Section 8 or Section 9."

6. In the light of the facts and circumstances, the petitioner is at liberty to submit an application for correcting the date of birth to the Registrar of Births and deaths, Chennai within a period of two weeks from the date of receipt of a copy of this order and the said official, on receipt of the same, is

directed to consider the said application on merits and in accordance with the law in the light of the above cited statutory Rules and pass orders within a further period of three weeks thereafter and communicate the decision taken, to the petitioner.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.
vsm

s/d-
Assistant Registrar(CS-VII)
Dt.1.8.16

***Corrected order to go
sd/-
Sub Assistant Registrar
Dt.7.9.2016**

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary,
The State Government
Examination Commission,
College Road,
DPI Campurs,
Chennai - 6.
- 2.The District Educational Officer,
Chennai North,
Chennai - 8.
3. The Registrar of Births and Deaths,
Corporation of Chennai,
Rippon Buildings, Chennai - 600 003.

***To be substituted to the
order already despatched
on 5.8.16.**

+ 1 cc to Mr.K.Sathish Kumar, Advocate SR 32844

ctk(co)
prk1/8
krd 7/9

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