

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39958 of 2015

Albert Daniel Raj

... Petitioner

vs.

1. The Regional Passport Officer,  
Regional Passport office,  
Royala Tower Nos.2 and 3, IV Floor,  
Old No.785, New No.158, Anna Salai,  
Chennai, Tamil Nadu 600 002.

2. The Assistant Passport Officer,  
Passport Seva Kendra,  
Navins Presidium,  
No.103, Nelson Manickam Road,  
Aminjikarai, Chennai 600 029.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to correct the date of birth as 29.01.1988 and Coonoor instead of 03.06.1988 and Madras in the petitioner's re-issue passport No.E9662827 File No:MA2078793337715 on the basis of the petitioner's representation dated 13.11.2015.

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|----------------|---|-------------------|
| For Petitioner | : | Mr.K.Balaji       |
| For R1 & R2    | : | Mr.D.Simson, CGSC |

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents to correct his date of birth and place of birth as '29.01.1988' and 'Coonoor', instead of '03.06.1988' and 'Madras' respectively and to re-issue passport No.E9662827, File No:MA2078793337715, based on his representation dated 13.11.2015.

2. It is the case of the petitioner that he was born on 29.01.1988 at Coonoor, Nilgiris District. His father by name Honest Selvaraj had obtained a passport for the petitioner in the year 1994 bearing Passport No.T188084, in which, his date of birth and place of birth were mentioned as '03.06.1988'

and 'Madras', instead of '29.01.1988' and 'Coonoor, Nilgiris District' respectively. After expiry of his passport, he applied for its renewal through on line passport Seva Kendra on 02.09.2015, in which, he mentioned his actual date of birth and place of birth. On receipt of his application, the petitioner was called for enquiry by the second respondent. Accordingly, he appeared on 04.09.2015 and produced all the documents relating to his actual date of birth and place of birth. However, the second respondent directed the petitioner to produce a court order to rectify the said mistake in the passport. The petitioner also made a representation dated 13.11.2015 to the respondents to correct his date of birth and place of birth in his passport, but the said representation is pending without any action. Therefore, the petitioner has no other option except to approach this court with the present writ petition for the above stated relief.

3. The respondents have filed a detailed counter affidavit, wherein, it has been stated as follows:

(i) The petitioner had initially applied for passport by furnishing his name as 'Daniel Selvaraj' and obtained passport No.T188084 dated 25.10.1994 valid upto 24.10.2004. Due to efflux of time, the records pertaining to the issue of Passport No.T188084 were destroyed by the office of the respondents.

(ii) The petitioner had applied for reissue of passport on 29.12.2003 declaring his date of birth as '03.06.1988' and place of birth as 'Chennai'. Based on the information and declaration furnished by him and after obtaining the report from by the Commissioner of Police, Chennai, he was issued with a Passport No.E8894745 dated 14.5.2004, which was valid upto 13.05.2014.

(iii) Subsequently, the petitioner had applied for reissue of passport No.E8894745 on 16.06.2004, after correcting his name as 'Albert Daniel Raj' instead of 'Daniel Selvaraj'. However, in the said application, he did not claim for change of date and place of birth. After police verification, Passport No.E9662827 dated 21.07.2004 valid upto 13.05.2014, was issued to him.

(iv) Thereafter, the petitioner had submitted an application for reissue of passport No.E9662827 for change of date of birth and place of birth vide File No.MA2078793337715 on 4.9.2015. In his existing passport, his date of birth and place of birth are mentioned as '03.06.1988' and 'Madras' respectively. He furnished representation to correct his date of birth as '29.01.1988' and place of birth as 'Coonoor'. However, as per the prevailing instructions, he was advised to obtain declaratory court order from the competent civil court and his passport application was not refused, but kept on hold.

(v) 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. The relevant paragraph of the said office memorandum reads 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 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 it is satisfied with the claim and document(s) submitted by the applicant, may accept his request for change of date of birth in the passport without imposition of any penalty."

(vi) With regard to change of place of birth, according to the instructions contained in para 6 of Chapter 8 (Regarding change in entries in the passport) in Passport Manual, the Ministry had issued guidelines, which is reproduced as follows:

"Since applicants randomly write village or town or city as place of birth, it is possible that a person born in a suburb may write the name of the main city itself. Accordingly, PIAs should not contest change of place of birth in courts if the place already recorded in the passport and the one the applicant wants to change fall within the same district or adjoining districts. However, when such change is sought to be made from one state to another; or from India to abroad or vice versa, the case should be examined thoroughly and properly contested in court."

Further, the High Court, in the order made in WP No.27318 of 2015, in similar case regarding change in place of birth falling in far off districts, but within the same State, directed this office to pass appropriate orders on merits and in accordance with law, without insisting on any direction from the civil court.

(vii) It is further stated by the respondents in paras 8 and 9 of their counter affidavit that on verification of the records, it was found that the petitioner had obtained passport twice, when he was a minor. Therefore, this office will process the petitioner's application in terms of Ministry's latest office memorandum, regarding change of date of birth and in the light of the High court order made in WP.No.27318 of 2015, regarding change of place of birth, after imposition of penalty, if any, for suppression of correct place of birth in his earlier passports and in accordance with Passports Act 1967.

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

5. In this writ petition, the petitioner sought for a direction to the respondents to re-issue his passport bearing No.E9662827, after correcting the errors crept in, at the instance of his father, with regard to his date of birth and place of birth as '03.06.1988' and 'Madras', instead of '29.01.1988' and 'Coonoor, Nilgiris District' respectively. In support of his claim, the petitioner produced his birth certificate issued by the Coonoor Municipality and SSLC and HSC mark statements issued by the Education Department. Further, the respondents have, in paras 8 and 9 of their counter affidavit, categorically averred that the petitioner's application will be processed in terms of the Ministry's latest office memorandum bearing No.VI/401/2/5/2001 dated 26.11.2015 with regard to change of date of birth and in the light of the order of the High Court made in WP.No.27318 of 2015, with regard to change of place of birth.

6. In view of the above, this Court directs the petitioner to submit a fresh application enclosing the necessary documents, along with a copy of this order to the respondents within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the respondents are directed to consider the same and pass appropriate orders, with regard to change of date of birth and place of birth in the passport of the petitioner, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of six weeks thereafter.

7. The writ petition is disposed of accordingly. No costs.  
rk

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Regional Passport Officer,  
Regional Passport office,  
Royala Tower Nos.2 and 3, IV Floor,  
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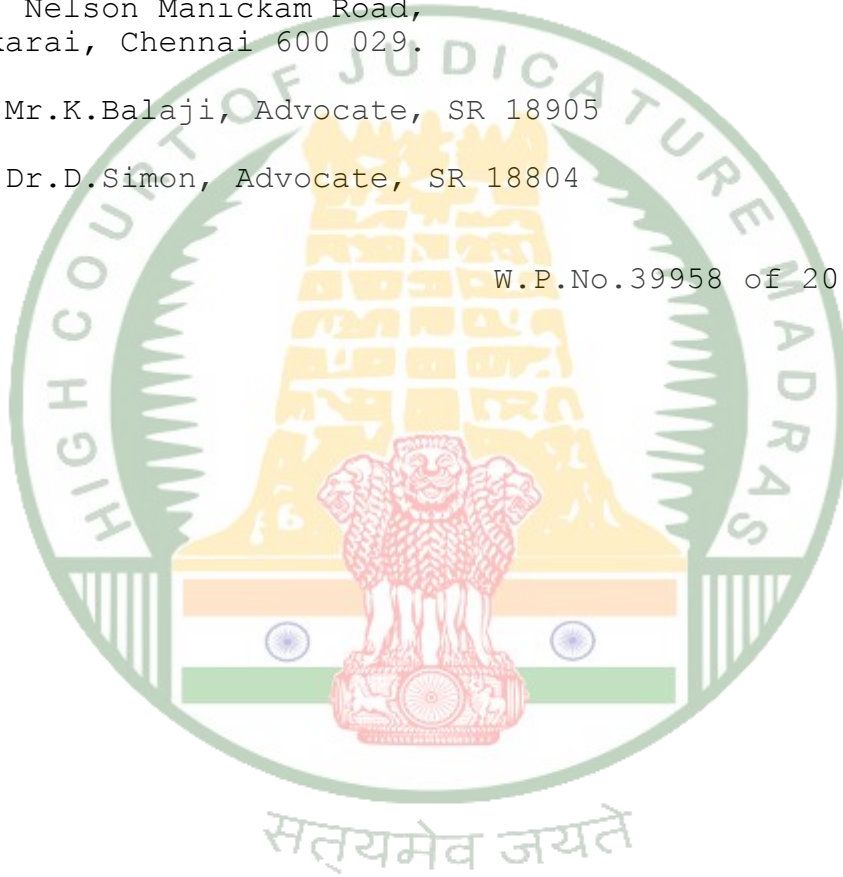
2. The Assistant Passport Officer,  
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Aminjikarai, Chennai 600 029.

+ 1 cc to Mr.K.Balaji, Advocate, SR 18905

+ 1 cc to Dr.D.Simon, Advocate, SR 18804

lrs(co)  
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