

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.No.6229 of 2015

Y.Sulaiman Sait

..Petitioner

vs.

The Regional Passport Officer
Regional Passport Office
Chennai Royala Towers
Nos.2 and 3, IV Floor
Old No.785, New No.158,
Anna Salai, Chennai 600 002.

.. Respondent

Prayer: Writ Petition under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondent to consider and pass orders on merits by disposing the written representation made by the petitioner dated 15.11.2014, within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.C.Prakasam

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

ORDER

Heard the learned counsels appearing on behalf of the petitioner, as well as the respondent.

2. This writ petition has been filed praying that this Court may be pleased to issue a WRIT OF MANDAMUS, directing the respondent to consider and pass appropriate orders on the representation made by the petitioner, dated 15.11.2014, within a stipulated time, as may be directed by this Court.

3. From the averments made in the affidavit, filed in support of the writ petition, it is seen that the petitioner has made a request by his representation, dated 15.11.2014, directing the respondent to change his Date of Birth in his

passport, from 14.05.1972 to 14.05.1975. He has also made a request to change the name of his father, as Yunus Sait and the name of his mother, as Jameela.

4. The respondent has filed a counter affidavit, dated 11.07.2016. The relevant paragraphs of the said counter affidavit read as follows:

"4. The respondent submit that, filing of writ petition looks strange as he had used passport for more than 20 years with his age incorporated as '14.05.1972' and after a lapse of so many years he seeks to change the date of birth from '14.5.1972' to '14.5.1975'.

5. It is submitted that, there is no acceptable reason given for seeking such a change of date of birth with a difference of 3 years on the lesser side. The petitioner did not give any suitable explanation for giving a wrong date of birth at the time of initial application for passport. Subsequently, the petitioner had got reissued his passport in the year 2004 with same date of birth i.e.14.5.1972. He did not request for change in date of birth during the year 2004. In such a situation, the contentions of the petitioner in the writ petition with the prayer to change the date of birth from '14.5.1972' to '14.5.1975' seems highly imaginative to correct the date of birth with some other motive. Hence it is not acceptable.

6. It is submitted that, the prayer in the writ petition seeking change of date of birth after a lapse of almost 20 years cannot be accepted. The relief is covered by the Doctrine of laches. A party who slept over his right for more than 20 years cannot be allowed to seek redressal in a Court of law.

7. It is submitted that, in respect to paragraph No.1 to 3, it is submitted that as per our records, the petitioner had initially obtained passport No.Q732308 dated 30.09.1993 issued by this office declaring his date of birth as 14.05.1972. However, since computerization of records took place only after the year 1995, this office does not have records pertaining to issue of passport No.Q732308. He had widely travelled on the said passport.

8. The respondent further submits that, the petitioner, thereafter, had applied for reissue of damaged passport No.Q732308 vide File No.MASD00158804

at Regional Passport Office, Chennai. In this passport application, he had declared his father's name as 'Mohammed Ghouse Younose', mother's name as 'Pameela', date of birth as '14.5.1972' and obtained Passport No.F0316796 dated 01.10.2004 valid till 30.09.2014. Moreover, he had declared his educational qualification as 'S.S.L.C.' Though he had opportunity to change his date of birth while he applied for reissue of passport, he failed to do so. He had widely travelled on the said passport.

13. The respondent further submits that, the CPV Division, Ministry of External Affairs, vide office memorandum No.VI/401/2/5/2001 dated 26th November 2015, had issued revised guidelines regarding change/correction in date of birth already entered in the passport. The Ministry had emphasized vide sub para No.(iii) of para 4 of the Circular that 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:-

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.

In case the petitioner requests for same date of birth i.e.14.5.1972 as mentioned in the previous passports and with same parents name, this respondent office will process the passport application in accordance with Passports Act, 1967."

5. In such circumstances, this Court is not inclined to direct the respondent to dispose of the representation made by the petitioner, dated 15.11.2014, as prayed for by the petitioner. However, in view of the specific provisions of the Passports Act, 1967, it may be open to the petitioner to submit a fresh application to the respondent, with the necessary documents, in support of his claims, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, along with the necessary documents, the respondent shall consider the same and pass appropriate orders thereon, on merits and in accordance with law, within a period of twelve weeks, thereafter.

6. The writ petition is disposed of, with the above direction. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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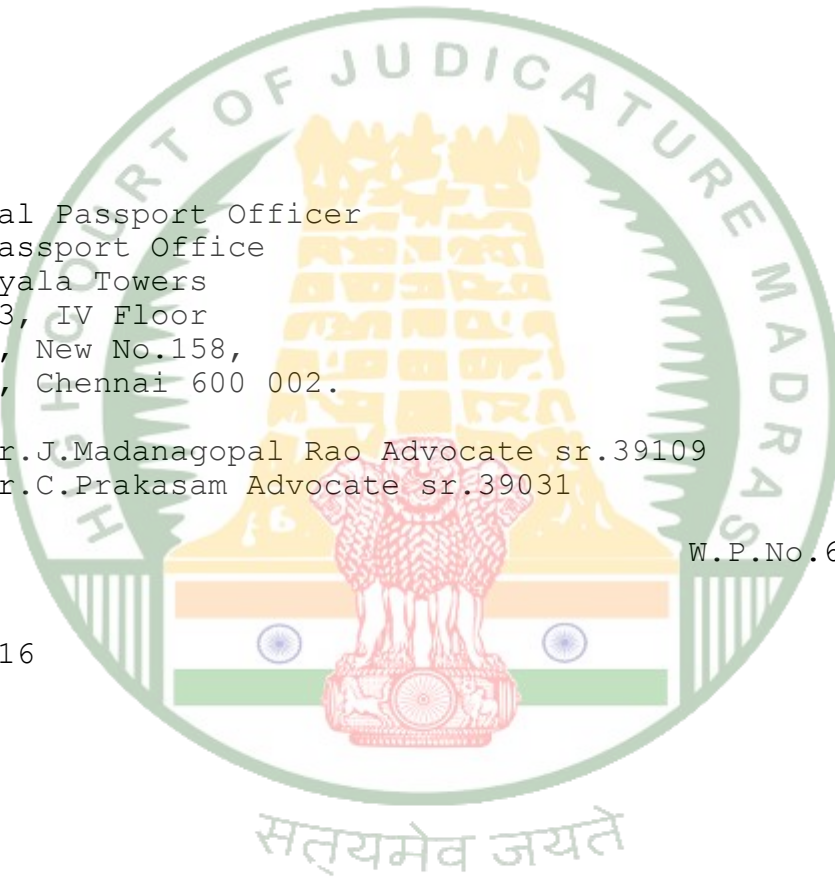
To

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+1 cc to Mr.J.Madanagopal Rao Advocate sr.39109
+1 cc to Mr.C.Prakasam Advocate sr.39031

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