

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.28085 of 2016

Deirdre Anne Shell

(After marriage)

@ Deirdre Anne Datodi

.. Petitioner

vs.

The Health Inspector & Registrar of Birth and Death,
St.Thomas Mount cum Pallavaram Cantonment Board,
Chennai-600 016.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to consider the petitioner's representation dated 30.07.2016 and to direct the respondent to register the petitioner name and date of birth in the birth and death register as "Deirdre Anne Shell" and "10.10.1965" and consequently direct the respondent to issue birth certificate to the petitioner.

For Petitioner : M/s.S.Sathyaraj

For Respondent : Mr.P.Srinivas

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner would state that she is an Australian citizen temporarily residing at No.892, Drummond St., NTH, Carlton VIC 3054, Australia and according to her, her father late Henry Robert Shell was working in Air Force Station, Tambaram in the year 1963 and he got married with Crystal Philomena Shell on 10.10.1959 at Bombay, India. The petitioner was born on 10.10.1965 in India in Military Hospital, St.Thomas Mount, Chennai-600 016 and at that time, her parents were residing at No.3, Smith Colony, Tambaram, Chennai. It is further stated by the petitioner that in the year 1969, her parents got migrated to Australia and settled there and both of them died on 20.11.2014 and 02.07.2016 respectively. The petitioner came to India on 18.07.2016 for the purpose of getting her Birth Certificate and when she approached the respondent, she was informed that her birth has not been registered and also issued with a non-availability certificate dated 22.07.2016. The petitioner is in urgent requirement of birth certificate for the reason that she has to prove that she was born in India, before the Australian Government and the petitioner has also made an enquiry and she was informed that her date of birth can be registered only

through Court Order. It is also stated by the petitioner that she do not have any relatives in Chennai and she is staying in a hotel in Chennai and would also state that in support of her claim, she has also produced the Baptism Certificate in Ref.No.107/1965 dated 19.07.2016 issued by Our Lady of Fatima Shrine, Velachery Main Road, East Tambaram, Chennai-600 059, which clearly establish the fact that she was born in India in Military Hospital at St.Thomas Mount, Chennai. The petitioner also claims that she is also having other supporting documents and therefore, prays for appropriate orders.

3. The learned counsel appearing for the petitioner would submit that since the petitioner was born in the year 1965, The Registration of Births and Deaths Act, 1969 would not have application to her case and she is constrained to approach this Court for the disposal of her application/representation dated 30.07.2016 submitted to the respondent for issuance of Birth Certificate and prays for appropriate orders.

4. Heard the submissions of Mr.P.Srinivas, learned counsel appearing for the respondent also.

5. A perusal of the typed set of documents filed in support of this writ petition would disclose that the petitioner had enclosed the Birth Certificate of her father, Baptism Certificate of her father, Marriage Certificate of her parents and also Police Clearance Certificate given to her parents and also the Certificate of Citizenship given to her parents as well as to her. The petitioner has also enclosed the Baptism Certificate in Reg.No.107/1965 dated 19.07.2016 issued by Our Lady of Fatima Shrine, Velachery Main Road, East Tambaram, Chennai-600 059, to evidence the fact that she was born on 10.10.1965 in Military Hospital, St.Thomas Mount, Chennai.

6. In the light of the above facts and circumstances, this Court directs the respondent to consider and dispose of the petitioner's application/representation dated 30.07.2016 on merits and in accordance with law after providing an opportunity of personal hearing and shall pass orders within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7. This writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Health Inspector & Registrar of Birth and Death,
St.Thomas Mount cum Pallavaram Cantonment Board,
Chennai-600 016.

+3 cc's to Mr.S.Sathyaraj, advocate,sr.46006.

 rj(co)
krd 16/8

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