

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2016

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.2778 of 2013

B.Yogeswaran
rep by his father/ natural guardian
S. Baskar .. Petitioner

Vs.

The Commissioner,
Pallavaram Municipality,
Chrompet,
Chennai-600 044. ... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records in Na.Ka.No.10950/2012/H1 dated 24.12.2012 on the file of the respondent and quash the same as arbitrary, illegal and contrary to law and direct the respondent to correct the petitioner's name from B.YOGESH to B.YOGESHWARAN in the Birth register on the file of the respondent and issue Birth certificate to the petitioner as 'B.YOGESHWARAN'.

For Petitioner : Mr.P.Britto I.Arockiaselvaraj

For Respondents : Mr.A.S.Thanbuswamy

O R D E R

Heard Mr.P.Britto I.Arockia Selvaraj, learned counsel for the petitioner and Mr.A.S.Thanbuswamy, learned counsel for the respondent.

2.The petitioner, B.Yogeshwaran, was born on 14.02.2000 in the RRASI Nursing Home, Chrompet, Chennai and the petitioner's name was registered with the respondent on 14.03.2000. At the time of registering the petitioner's name in the nursing home records, the petitioner's name was inadvertently given as 'B.YOGESH' by the petitioner's father. Consequently, the incorrect name was entered in the Register of Births maintained by the respondent as 'B.YOGESH'. Though the petitioner's name was registered as 'B.VIGNESH' in the Register of Births, the School records bear the correct name as 'B.YOGESHWARAN'.

Hence, the correct name was formally declared through gazette publication vide Tamilnadu Government Gazette, part-VI-Section 4 in No.41, dated 17.10.2012. By an application, dated 19.11.2012, the petitioner had applied for correction of his name from 'B.YOGESH' to 'B.YOGESHWARAN' under Section 15 of the Registration of Births and Deaths Act, 1969, along with the supporting documents. On receipt of the application, the respondent had passed the impugned order, dated 24.12.2012, rejecting his application on the ground that once the name is registered in the Birth Register, it cannot be corrected or amended as per the Registration of Births and Deaths Act, 1969. Aggrieved against the same, the petitioner has filed the present writ petition.

3.Learned counsel for the respondent would rely upon Section 15 of the Registration of Births and Deaths Act, 1969 and submitted that the name of the petitioner was not erroneously mentioned in the Birth Certificate, but it was mentioned as per the name given by the petitioner's father and therefore, there is no mistake on their part. Since there is no mistake, the respondent has no power to correct the Birth Register. Learned counsel for the respondent would rely his circular, dated 18.07.2001 and submitted that, only the mistake committed by the respondent can be corrected in the Birth Register and not for correct entry that has been given by the father which cannot be interfered. Learned counsel for the respondent would further submit that the petitioner had belatedly approached the respondent after a long gap of 10 years.

4.I have considered the submissions made by the respective counsel.

5.The contention of the learned counsel for the respondent cannot be countenanced that Section 15 of the Act is not applying to the facts of the case. From the plain reading of Section 15 of the said Act, it is evident that the Registrar has no power to correct a Birth entry is erroneous. When the affected person comes forward with an application that the name in the Birth certificate is wrong, the respondent cannot refuse that the name as given at the time of original registration, was correctly entered and thereby claim that it is not an erroneous entry. Even assuming that, the name as given by the petitioner was correctly entered into by the Registrar at the time of birth, a subsequent change in the name has to be determined as an incorrect entry and consequently the registrar can exercise the powers under Section 15 of Births and Deaths Act. In the present case, the petitioner has stated that the mistake had occurred in the hospital records where the petitioner was born and subsequently which came to be corrected and declared under Gazette Publication also.

6. In view of the same, the stand taken by the respondent that the Registrar has no power is incorrect. Consequently, the impugned order dated 24.12.2012, is quashed and the respondent is directed to correct the petitioner's name from 'B.YOGESH' to 'B.YOGESHWARAN' in the Birth Register on the file of the respondent and issue a correct Birth Certificate to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

7. In the light of the above observations, this Writ Petition is allowed. No costs.

Sd/-
Asst. Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

The Commissioner,
Pallavaram Municipality,
Chrompet,
Chennai-600 044.

1 cc to M/s.P. Britto, Advocate, Sr. 64054

W.P.No.2778 of 2013

CP (Co)
kk 28/12

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