

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6163 of 2016

S.Lakshmanasamy

.. Petitioner-in-person

Vs.

1. The Secretary to Government,
Ministry of External Affairs,
CPV Division, Patiala House Annexe,
New Delhi.
2. The Regional Passport Officer,
Sastri Bhavan, Haddows Road,
Chennai.
3. The Assistant Passport Officer,
Regional Passport Office,
Passport Seva Kendra,
No.1, Bhanumathi Ramakrishna Road,
Saligramam, Chennai-600 093. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents herein to alter the petitioner's date of birth as 16.08.1978 instead of 16.02.1978 in the Passport No.N6738931 issued by the third respondent herein and re-issue the passport within time frame as may be fixed by this Court.

For Petitioner : Mr.S.Lakshmanasamy,
petitioner-in-person

For Respondent : Mr.J.Madanagopal Rao, SCGSC

R2&3 : Mr.S. Pattabiraman Government
Advocate

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents herein to alter the petitioner's date of birth as 16.08.1978 instead of 16.02.1978 in the Passport No.N6738931 issued by the third respondent herein and re-issue the passport within time frame as may be fixed by this Court.

2. It is case of the petitioner-in-person as projected in the affidavit filed in support of the Writ Petition that he is an Advocate and his parents are agriculturists and illiterates. His date of birth is mentioned as 16.02.1978 in his school records and when the passport authorities asked to produce the Birth Certificate, his father applied for the petitioner's Birth Certificate for the above date 16.02.1978 and on enquiry by the authorities, they found that his birth has not been registered and when made search in Erode Hospital where he was born, it was learnt that his mother's discharge summary issued by the Hospital in 1978 showed that the petitioner's date of birth is 16.08.1978 and not 16.02.1978, based on which, when verified with the concerned Municipal Corporation office, the petitioner's date of birth is registered on 18.08.1978 itself. The above mistake has crept in due to the illiteracy of his parents and to travel abroad, the copy of the Birth Certificate issued by the competent authority and the Certificate issued by the Hospital, are enclosed to get the corrected passport. When the fact remains so, his date of birth is mentioned wrongly in the passport as 16.02.1978, as at that time, he did not possess the Birth Certificate. On application for re-issue of passport with request to change his date of birth through online, with the above enclosures, the petitioner was informed by the passport authorities that there is no provision to change the date of birth in the passport and hence, the very same passport was issued bearing number as N6738931. Based on the circular, dated 26.11.2015 issued by the first respondent, if the applicant applies for change in the date of birth within five years from the date of issuing the passport, with necessary Birth Certificate, the applicant is entitled to get the change of date of birth by paying penalty. The grievance of the petitioner is that the third respondent, without following the said circular, re-issued the passport without correction of his date of birth. The petitioner came to know of his correct date of birth only in 2016. Since the authorities refused to correct his date of birth based on the Birth Certificate, he has filed this Writ Petition for the above said relief.

3. Heard both sides.

4. As seen from the copy of the Birth Certificate issued by the Municipal authority, it is clear that the petitioner's date of birth is 16.08.1978. The petitioner (party-in-person) submitted that in an identical case, the Madurai Bench of this Court in W.P.(MD).No.12223 of 2014, by order dated 09.10.2015, gave positive direction, taking into consideration the facts and circumstances of the case, and directed the respondent therein (passport authority) to issue passport to the petitioner therein by incorporating his original date of birth within a period of four weeks from the date of receipt of a copy of the order.

5. Following the above said order dated 09.10.2015 passed by the Madurai Bench of this Court in W.P.(MD).No.12223 of 2014, this Writ Petition is disposed of, by directing the petitioner to produce his Birth Certificate and other documents to the third respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the third respondent is directed to conduct enquiry and pass an appropriate order with regard to issuance of fresh passport to the petitioner, by incorporating his date of birth as 16.08.1978, within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cs

Copy to

1. The Secretary to Government,
Ministry of External Affairs,
CPV Division, Patiala House Annexe, New Delhi.
2. The Regional Passport Officer,
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3. The Assistant Passport Officer,
Regional Passport Office,
Passport Seva Kendra,
No.1, Bhanumathi Ramakrishna Road,
Saligramam, Chennai-600 093.

+1cc to Mr.S. Lakshmanasamy, Advocate, S.R.No.12487
+1cc to Mr.J. Madanagopal, Advocate, S.R.No.12516
+1cc to the Government Pleader, S.R.No.12956

TEJ(CO)
EU(08/03/2016)

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