

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.9226 of 2016

S.Palanisamy

.. Petitioner

Vs.

The Small Industries Development
Corporation Limited, Rep. by its
Chairman and Managing Director,
SIDCO, Corporate Office,
Guindy, Chennai-600 032.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to dispose of the petitioner's representation, dated 11.11.2015, in the light of the Birth Certificate furnished by the petitioner and in the light of the law laid down by the Supreme Court of India in "Iswarlal Mohanlal Thakkar Vs. Paschim Gujarat Vij Company Ltd.", reported in 2014 (2) LLN 301 (SC).

For Petitioner : Mr.V.Prakash, Senior Counsel for
Mr.K.Sudalaikannu
For Respondent : Mr.Abdul Saleem

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondent to dispose of the petitioner's representation, dated 11.11.2015, in the light of the Birth Certificate furnished by the petitioner and in the light of the law laid down by the Supreme Court of India in the case of "Iswarlal Mohanlal Thakkar Vs. Paschim Gujarat Vij Company Ltd.", reported in 2014 (2) LLN 301 (SC).

2. It is the case of the petitioner that he was born on 05.07.1961 to his parents--Shri.D.Singaram and Smt.S.Gangaiyammal at Vadugapalayam Village. His birth was duly registered as per the provisions of the Registration of Births and Deaths Act, 1969. As per the practice adopted in old days, which was in vogue while admitting the children to School, his father also gave the petitioner's date of birth as 01.06.1959 and not the above said date 05.07.1961. The petitioner further stated that he completed post-graduation in Commerce and Management Studies and had been appointed as Assistant Development Officer in the respondent-SIDCO on 10.11.1986 on the basis of the petitioner's school records, based on which, the

respondent-SIDCO recorded the petitioner's date of birth as 01.06.1959. Within five years from the date of joining into service, the petitioner made a representation, dated 15.07.1991 to the respondent to correct his date of birth in service records as 05.07.1961 by also furnishing his Birth Certificate for verification of the respondent. In spite of several requests/reminders, one of which is dated 09.09.1991, the respondent did not take any action. In order to ventilate his grievance, the petitioner further relies on the decision of the Supreme Court of India, reported in 2014 (2) LLN 301 (SC) in the case of "Iswarlal Mohanlal Thakkar Vs. Paschim Gujarat Vij Company Ltd.", wherein, the Apex Court held that as per Section 35 of the Indian Evidence Act, the Birth Certificate is the conclusive proof of age, the same being an entry in the public record. It is the further claim of the petitioner that in spite of the above law laid down by the Supreme Court, the respondent did not heed to the request of the petitioner, the last representation being dated 11.11.2015, which has not been considered by the respondent so as to correct the petitioner's date of birth. Hence, he has filed this Writ Petition for the above relief.

3. Heard both sides.

4. Without going into the merits of the claim of the petitioner, this Court directs the respondent to consider the said representation of the petitioner, dated 11.11.2015 submitted for correction of the petitioner's date of birth in the service records as 05.07.1961, in the light of the decision of the Supreme Court of India, reported in 2014 (2) LLN 301 (SC) in the case of "Iswarlal Mohanlal Thakkar Vs. Paschim Gujarat Vij Company Ltd". The petitioner is also directed to furnish his certified/attested copy of the Birth Certificate to stake his claim before the respondent. The respondent is also directed to conduct enquiry, give an opportunity of personal hearing to the petitioner and necessary parties and thereafter pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

CS

To:

The Chairman and Managing Director,
Small Industries Development
Corporation Limited,
SIDCO, Corporate Office,
Guindy,
Chennai-600 032.

+ 1 cc to Mr.Abdul Saleem, Advocate SR.15777
+ 1 cc to Mr.K. Sudalai Kannan, Advocate Sr.15927

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SR(CO)
EU 28.03.16



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