



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2016

CORAM :

THE HONOURABLE MR. JUSTICE V. BHARATHIDASANWrit Petition (MD) No.6453 of 2016

WEB COPY

J.Priyadharshini

... Petitioner

Vs.

The Regional Passport Officer,
Claret Plaza,
Melakkal Main Road,
Kochadai,
Madurai.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent to process the petitioner's passport application in Application Reference No.(ARN) 15-1010612897 and issue passport forthwith by mentioning the names of the adoptive parents of petitioner namely Joseph and Pushpam in the passport within time frame.

For Petitioner

: Mr.S.Balamurugan

For Respondent

: Mr.P.Paulpandi

ORDER

The petitioner has come up with this writ petition seeking for the issuance of a writ of mandamus, to direct the respondent to process the petitioner's passport application in Application Reference No.(ARN) 15-1010612897 and issue passport forthwith by mentioning the names of the adoptive parents of the petitioner namely, Joseph and Pushpam in the passport.

2.Heard Mr.S.Balamurugan, learned counsel appearing for the petitioner and Mr.P.Paulpandi, learned Central Government Standing Counsel appearing for the respondent.

3.According to the petitioner, she was given in adoption to N.Joseph and Pushpam, who is the brother of the petitioner's father. Now, the petitioner got married to one Joel Benny who is working in Malaysia. It is further stated that the petitioner has applied for passport mentioning the names of the adoptive parents in the column of parents in the application. After processing the application, the respondent issued a verification slip to the petitioner stating that the petitioner should produce the Court order regarding the petitioner's adoption. According to the petitioner, there is no personal law for the Christian for adoption, only the Juvenile Justice Act would be applicable and the passport authority has no power to test the veracity of the adoption deed. Hence, the petitioner filed the present writ petition.



4. The respondent has filed a counter affidavit stating that while filing application for passport, the petitioner enclosed birth certificate issued by the Registrar of Birth and Death, Department of Local Administration, Nagercoil Municipality where, the names of the biological parents were found place. But the petitioner submitted adoption deed dated 12.05.1994 which was registered before the Sub Registrar, Rajakkamangalam. It is further stated that since there is no personal law for Christians, the petitioner has to approach the Court under the provision of the Guardians and Wards Act, 1890. Hence, the respondent advised the petitioner to furnish the Court order under the Passport Rules. It is also further stated that if the petitioner is willing to obtain a passport as per the particulars filled furnished by her, the same will be processed in accordance with the Indian Passport Act, 1967.

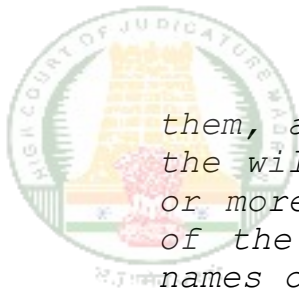
5. In similar circumstances, this Court in Mrs.B.S.Deepa Vs.The Regional Passport Officer, Chennai and another made in W.P.No.29105 of 2014, dated 16.12.2014, has held as follows:-

"36. Therefore, I am of the view that the Ministry of External Affairs is obliged to come up with innovative steps and measures to resolve problems of this nature. The Passport Manual may perhaps have to be amended suitably to incorporate additional columns in the applications for the issue of passports. Apart from the columns where the names of the biological parents are to be indicated, the application form may also contain additional columns where the names of the step-parents could be indicated, wherever applicable. This will reduce or even eliminate the possibility of any discrepancy between the entries in the Birth Register and the School Records or other records.

37. Such a step as suggested above, will also ensure that the rights guaranteed to children under the United Nations Convention on the Rights of the Child, 1989, to which India is a signatory, are protected. While it is necessary to secure a passport for the minor daughter of the petitioner at the earliest, it is also necessary to ensure that the emergent needs do not destroy the future rights of the child. Therefore, I am of the view that the writ petition could be disposed of with certain directions, both to the Union of India and to the respondents herein, so that persons similarly placed like the petitioner are not compelled to approach the Court every time for the issue of passports.

38. In view of the above, the writ petition is disposed of with the following directions:-

(1) The Ministry of External Affairs, Union of India may incorporate suitable provisions in the Passport Manual and incorporate suitable columns in the applications for the issue of passports, to enable the parties to indicate either the names of the biological parents or the names of the adoptive parents or the names of the step parents or all of



them, according as the situation demands. It can be left to the will of the parties either to indicate the names of one or more of the biological parents along with the name/names of the adoptive or step parent/parents or to indicate the names of all.

(2) Insofar as the case on hand is concerned, the respondents shall issue a passport to the daughter of the petitioner, by indicating the name of R.Lakshmanan as the stepfather, in the column reserved for filling up the name of the father. The respondents are directed to issue passport within four weeks, upon the petitioner's application bearing File No.MA3067806994714, dated 10.07.2014".

6. In the instant case, there is no reason to suspect the adoption as the adoption was given only to the brother of the biological father of the petitioner which was also duly registered in the office of the Sub Registrar, Rajakamangalam.

7. Considering the fact that as the petitioner is in urgent need of passport, and all the school certificates and college certificates stand in the name of adoptive parents, the respondent is directed to consider the passport application of the petitioner and issue passport to the petitioner indicating the names of the adoptive parents namely, Joseph and Pushpam within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that this order should not be taken as a precedent, since this order is passed taking into consideration of peculiar facts and circumstances of this case.

8. The writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar (CSII)

/True Copy/

Sub Assistant Registrar

To
The Regional Passport Office,
Claret Plaza, Melakkal Main Road,
Kochadai,
Madurai.

+1 cc to Mr.S.Balamurugan, Advocate, Sr.No:71819

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sms
rum /15.12.2016/3p/3c