

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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WRIT PETITION No.39718 of 2015

BETWEEN

C. Rizwan Basha.

... PETITIONER

AND

The Union of India, Rep. by its Principal Secretary, Ministry of External Affairs, Government of India, New Delhi and another.

...RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 28.01.2016

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | No |

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ORDER:

Heard learned counsel for the petitioner and learned standing counsel appearing for the respondents.

2. Petitioner states that his parents obtained a passport during his minority on 20.10.1999 and that as per the school records and other records his date of birth is 10.06.1984 but the same was wrongly shown in the passport as 23.06.1976. Petitioner states that he never used the passport so far and therefore, he could not notice the date of birth recorded therein. Petitioner submits that only when he was applying for renewal of the passport, he could notice the mistake and made an appropriate application with affidavit and school records on 19.08.2014. A copy of the acknowledgement of such application is produced. The present writ petition is, however, filed on the ground that the second respondent is refusing to entertain the application on the ground that he has to approach a competent civil Court and obtain a decree, as the request for renewal or correction cannot be accepted after lapse of five years.

3. Learned standing counsel states that latest guidelines have been issued by the Ministry of External Affairs dated 26.11.2015.

Learned standing counsel submits that the said guidelines are issued in pursuance of the directions of the Hon'ble High Court of Kerala in WP.No.9073 of 2015. According to the said guidelines, under clause (iv) Para 4, no such request after period of five years is entertainbale by the passport issuing authority and the applicants are relegated to obtain declaratory Court order to carry out the changes with regard to date of birth in the passport. Based on the above circular instructions, learned standing counsel states that the second respondent cannot entertain the application of the petitioner.

4. Learned counsel for the petitioner, however, points out that the clause (iii) of the said circular instructions and in particular, exception provided therein, which states that with respect to permissible period of five years from the date of issue of passport, an exception is given with respect to an applicant who was minor at the time when passport was issued with alleged wrong date of birth. The said instructions, therefore, state that if an applicant applies after attaining the age of majority, the passport issuing authority, irrespective of the issuance of passport, accept his case for consideration and if satisfied with the claim and the documents submitted, may accept the request for change of date of birth in the passport without imposition of any penalty.

5. The above exception clearly supports the case of the petitioner and the stipulated time of five years from the date of issuance of passport would not apply to the case of the petitioner, who has obtained passport initially during his minority i.e. when he was about 15 years of age. There is, therefore, no reason why the second respondent cannot entertain the application of the petitioner, referred to above, examine and process the same on its own merits and in accordance with law and pass appropriate further orders expeditiously.

With the above direction to second respondent, the writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

January 28, 2016
DSK