

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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WRIT PETITION No.4368 OF 2016

ORDER:

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

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2. The present writ petition came to be filed seeking issuance of writ of *mandamus* to declare the action of the 2nd respondent in keeping the petitioner's Passport application bearing No.HY1068881398715 and insisting his father's name in the Date of Birth Certificate, as arbitrary and illegal and consequently, to direct the 2nd respondent not to insist on petitioner's father name in the Date of Birth Certificate and to process the petitioner's passport application.

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3. The averments in the affidavit filed in support of the writ petition are that the petitioner is pursuing B.Tech Final year in V.I.T. University, Vellore, Tamilnadu. He applied for Passport and personally attended the Passport Office on 14.10.2015. He submitted all the relevant documents that are required for obtaining passport. On verification of all the documents, the 2nd respondent informed the petitioner to produce Date of Birth Certificate with father's name. The petitioner explained to the 2nd respondent stating that father's name is not mandatory in the Date Birth Certificate as he had abandoned his mother just few months prior to his birth. Instead of accepting the said certificate, the 2nd respondent insisted the petitioner to get the Date of Birth Certificate with his father's name and kept the Passport application pending. Left with no other option, the present writ petition is filed.

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4. Learned counsel for the petitioner submits that the action of the authorities in insisting the petitioner to produce Date Birth Certificate containing his father's name is totally unjustified and improper.

Relying upon the judgment of the Apex Court in **ABC V. State (NCT of Delhi)**^[1], learned counsel for the petitioner submits that since the passport application of the petitioner is pending consideration, the same may be directed to be disposed of in accordance with law.

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5. The reason for withholding the passport application of the petitioner due to non-furnishing the name of his father in my view is incorrect. Mentioning of father's name in application is not mandatory in all instances, among such cases, the application made for issuance of passport by a child whose mother has severed all contacts or where father is unknown.

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6. The Hon'ble Apex Court in **ABC's** case (1 **supra**) at para 28 observed as follows:

"We are greatly perturbed by the fact that the Appellant has not obtained a Birth Certificate for her son who is nearly five years old. This is bound to create problems for the child in the future. In this regard, the Appellant has not sought any relief either before us or before any of the Courts below. It is a misplaced assumption in the law as it is presently perceived that the issuance of a Birth Certificate would be a logical corollary to the Appellant succeeding in her guardianship petition. It may be recalled that owing to curial fiat, it is no longer necessary to state the name of the father in applications seeking admission of children to school, as well as for obtaining a passport for a minor child. However, in both these cases, it may still remain necessary to furnish a Birth Certificate. The law is dynamic and is expected to diligently keep pace with time and the legal conundrums and enigmas it presents. There is no gainsaying that the identity of the mother is never in doubt. Accordingly, we direct that if a single parent/unwed mother applies for the issuance of a Birth Certificate for a child born from her womb, the Authorities concerned may only require her to furnish an affidavit to this effect, and must thereupon issue the Birth Certificate, unless there is a Court direction to the contrary. Trite though it is, yet we emphasise that it is the responsibility of the State to ensure that no citizen suffers any inconvenience or disadvantage merely because the parents fail or neglect to register the birth. Nay, it is the duty of the State to take

requisite steps for recording every birth of every citizen. To remove any possible doubt, the direction pertaining to issuance of the Birth Certificate is intendedly not restricted to the circumstances or the parties before us.

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7. Having regard to the facts in issue and in view of the judgment referred to above, withholding of passport application for non-mentioning the name of the father of petitioner in said the application is improper and incorrect.

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8. Having regard to the circumstances stated above, the Writ Petition is disposed of directing the 2nd respondent to process the passport application of the petitioner and pass appropriate orders in accordance with law within a period of three (3) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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JUSTICE C. PRAVEEN KUMAR

FEBRUARY 12, 2016
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THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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Dt: 12.02.2016

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[1] (2015) 10 Supreme Court Cases 1