

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.19677 OF 2016

ORDER:

This Writ Petition is filed seeking to declare the action of respondent authority in not correcting the date of birth of the petitioner as 07.12.1995, while issuing her renewed passport bearing No.N 9833561, as illegal and arbitrary.

The case of the petitioner is that her date of birth was wrongly recorded as 07.03.1996 in Mahrati in the Birth Certificate issued by the Office of the Municipal Council, Akola, Maharashtra, and as such, in her earlier passport bearing No.F 9911846, her date of birth was mentioned as 07.03.1996 instead of her correct date of birth, which is 07.12.1995. It is her further case that she noticed the same at the time of applying for renewal of her passport and as such, she applied to Akola Municipal Corporation for correction of date of birth and pursuant to the same, a fresh Birth Certificate with corrected date of birth was issued. Thereafter, she applied online for re-issuance of expired passport with correct name, surname and date of birth, but the respondent authority informed her that the passport cannot be issued with the corrected date of birth. Aggrieved by the same, the present Writ Petition is filed.

Learned counsel for the petitioner submits that Ministry of External Affairs issued Circular, dated 18.04.2001, regarding correction of date of birth and the mistakes, if any, occurred in the passport and in spite of the same, the respondent authority, without following the aforesaid Circular, is not issuing fresh passport to the petitioner with changed date of birth. The learned counsel, in support of his submissions, relied on the judgment of this Court in W.P.No.5300 of 2007, dated 16.05.2007.

On the other hand, learned Standing Counsel appearing for the Central Government submits that since the petitioner's date of birth was entered basing on the Birth Certificate, only basing on the declaration given by the civil Court, her date of birth can be corrected.

The relevant portion of the Circular, dated 18.04.2001, reads as follows:

"i) Where an applicant is seeking rectification/Correction of a mistake in the entry of date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

ii) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting

on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

iii) Where the initial entry has been made on the basis of a supportive document issued by one competent authority and the application subsequently requests for a change on the basis of a certificate issued by another competent authority i.e. municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.”

The aforesaid Circular provides various contingencies wherein date of birth can be corrected. Basing on the same, this Court disposed of W.P.No.5300 of 2007 on 16.05.2007. In view of the same, respondent is directed to consider the request of the petitioner in terms of the Circular, dated 18.04.2001, which was followed in W.P.No.5300 of 2007, and take necessary action within a period of four weeks from the date of receipt of a copy of this order.

Subject to the above, the Writ Petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. No costs.

REDDY, J

A. RAJASHEKER

July 05, 2016

Note: Issue C.C. in three days.
B/o.MD