

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8838 of 2016

=====

Shahzad Hussain, son of Abdul Majeed, Resident of Majeed Manzil, Sharfuddinpur, P.O.- Painathi, P.S.- Bihta, District- Patna 801103. Petitioner/s

Versus

1. Union of India through Secretary of External Affairs, Government of India.
 2. The Chief Passport Officer, Ministry of External Affairs, Passport Office, New Delhi.
 3. The Passport Officer, Ministry of External Affairs, Passport Office Patna.
 4. The Assistant Passport Officer, Regional Passport Office, Ministry of External Affairs, Passport Office Patna. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Ram Narayan Brahmachari, Adv.

For the Respondent/s: Mr. S.D. Sanjay (Addl. Soc. Gen.)

: Mr. Ram Anurag Singh, CGC.

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date : 24-07-2017

Heard parties. Perused the records of the case.

Through this writ petition, the petitioner seeks quashing of the order dated 18.02.2016 passed by the respondent no. 4, i.e., the Assistant Passport Officer, Regional Passport Office, Ministry of External Affairs, Passport Officer, Patna, as contained in Annexure-7 by which the respondent has declined to vary/make a correction in the petitioner's new passport.

The brief facts of this case is that the petitioner applied for passport in the year 1999 under Section 5 of the Passport Act, 1967 read with Passport Rules, 1980 which was issued on



03.09.1999 and the same was valid till 02.09.2009. The petitioner claims that such entry was wrongly made by the passport authority due to either clerical mistake or oversight, thereafter, the petitioner, as claimed, made an application before the respondent no. 3 for correction of date of birth but the passport authority declined to do so. However, neither a copy of application form nor any order to that extent has been appended with this writ petition and merely statement has been made. The petitioner then again applied for reissue of passport in the year 2010 and on 23.11.2010 passport was reissued to him showing his date of birth 15.01.1981 and the passport was made valid up to 22.11.2020, a copy of the passport has been appended as Annexure-3, thereafter, the petitioner claims to have contacted for correction of date of birth but the respondent authority declined to do so. However, neither any date nor any copy of such application or decision of the passport authority has been appended. It is further claimed that subsequently on 17.12.2015, the petitioner again applied for reissue of the passport and for that he submitted his matriculation certificate as well as other certificate and documents showing his date of birth as 15.01.1981. On 15.01.2016, the respondent no. 4 issued a letter requiring clarification, however, on 18.02.2016, the respondent no. 4 issued the impugned letter/order stating date of birth entered in



passport cannot be changed and if the petitioner wishes to obtain passport as per the entries in existing passport, please intimate the same to this Office.

Counter affidavit has been filed on behalf of the respondent no. 3 and 4 stating that the petitioner had applied for passport in the year 1999 showing his date of birth as 15.01.1981, however, the statement which he had submitted is not readily traceable or has been destroyed due to efflux of time. However, a copy of the application form filed up on 31.12.2015 by the petitioner has been brought on record as Annexure-2 which shows that he has shown his date of birth as 15.01.1981 whereas the receipt shows his date of birth as 15.07.1981. The petitioner again filled up the application form on which the Passport No. J50001715 was issued to him on 23.11.2010, as contained in Annexure-B to the counter affidavit which shows that he has filled up his date of birth as 15.01.981 and not as 15.07.1981.

Now, the question is if such application was made in the year 1999 why the petitioner immediately did not apply for correction of his date of birth and why he waited for about 16 years for making such correction? Though he has stated in the counter affidavit that he has contacted earlier also but there is no iota of evidence regarding filing of application making such request.



Moreover, it would have been vital for taking a decision in this case as to upon which document such concerned entries were made in the year 1999 while issuing the passport but that might have destroyed by efflux of time. The respondents are contesting the claim of the petitioner that such entry was a clerical error. In support of that they have shown that in the application form filled up for reissue of passport in the year 2010 also the petitioner has mentioned his date of birth as 15.01.1981.

In such a situation, in my considered view, a decision cannot be taken for reissue of passport allowing such claim to the petitioner as evidence in this case has to be evaluated by a competent forum before coming to any decision regarding the correction of date of birth.

Accordingly, this writ petition stands dismissed.

However, this judgment would not shut the door of the petitioner in pursuing the matter before a competent forum which may be available to him in law.

(Dr. Ravi Ranjan, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.10.2017
Transmission Date	N A

