

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 480 OF 2016

Jayesh Kirtikumar Desai ... Petitioner

Versus

Govt of India and the Regional Passport
Officer ... Respondents

Mr. Praveen Singh i/by Ms.Sulbha Joshi for the petitioner.

Mr. Haridas Rajendera Madhukar for the respondents.

**CORAM : SHANTANU KEMKAR &
G.S. KULKARNI, JJ.
NOVEMBER 16,2017**

P.C.:

By filing this petition under Article 226 of the Constitution of India, petitioner is seeking direction in the nature of *mandamus* against the respondents directing them to change the petitioner's place of birth and date of birth in the passport to be issued to the petitioner after expiry of the previous passport held by the petitioner.

2. According to the petitioner, earlier he was not having his "Birth Certificate" but when he applied and received the same, it is revealed that his correct date of birth is 19th September, 1966 and not 19th April, 1966 which on the basis of the school leaving certificate he had

earlier stated twice for getting the passport.

3. According to the petitioner, his correct date of birth is 19th September, 1966 on the basis of "Birth Certificate" issued to him under section 12(7) of the Local enactment. It is also the case of the petitioner that his place of birth is at Udupi, Karanataka as per the birth certificate and not at Thane. In the circumstances, petitioner had applied for issuance of the passport mentioning the said date and place of birth but till date the respondents have not issued the passport to the petitioner in view of the aforesaid discrepancies.

4. The respondents have filed reply and placed reliance on the office memorandum dated 26.11.2015 Exh.'A' stating therein that in view of the judgment of Kerala High Court in WP No.9073 of 2015 the correction/change of entries in the date of birth/place of birth in the passport cannot lightly interfered with, that too after many years without any sustainable cause and without any explanation as to why initially such a wrong declaration was made and why now a change is sought that too based on a document which was available with the applicant when the original declaration was made.

5. Having considered the submissions made by the learned counsel for the parties and having gone through the office memorandum of the respondents dated 26.11.2015, we find that

even the office memorandum and the judgment of Kerala High Court referred in the said office memorandum permits correction/change of the entries regarding date of birth and place of birth, if there is reasonable explanation and if there is a document available with the applicant which was not available at the time when original declaration was made.

6. However, in the present case, we find that no such adjudication has been made by the respondents as yet and the application is kept pending.

7. Keeping in view as aforesaid, we dispose of this petition by directing the competent authority of the respondents to consider the petitioner's application for passport in the light of the observations made hereinabove, uninfluenced by their stand taken by them in the reply. We expect that the respondents shall consider the authenticity of the documents as also the prayer made by the petitioner in view of the explanation offered by him.

8. The petitioner is permitted to file fresh application. Let the decision on it be taken by the competent authority of the respondents within six weeks from the date of receipt of such application.

9. Needless to say that the respondents shall not reject the fresh application on the ground of limitation and shall examine and decide

it on its merits.

10. With the aforesaid directions, Writ Petition stands disposed of.

11. Parties to act on authenticated copy of this order.

(G.S.KULKARNI, J.)

(SHANTANU S. KEMKAR, J.)