

In the High Court of Judicature at Madras

Dated : 18.4.2017

Coram :

The Honourable Mr.Justice NOOTY.RAMAMOHANA RAO
and
The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P.No.9076 of 2017

D.Velsamy

...Petitioner

Vs

The Principal District Judge,
Coimbatore District, Coimbatore.

...Respondent

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Mandamus directing the respondent to correct the date of birth of the petitioner in his service record as 04.10.1965 instead of 04.10.1961 within a stipulated time.

For Petitioner : Mr.T.P.Prabakaran
For Respondent : Mr.M.Baskar

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J)

This writ petition is instituted by an Assistant working in Judicial Magistrate Court No.2, Pollachi, Coimbatore District, seeking a Writ of Mandamus to correct the date of birth of the petitioner in his service record as 04.10.1965 instead of 04.10.1961 within a stipulated time.

2. Heard Sri.T.P.Prabakaran, learned counsel for the petitioner and Sri. M.Baskar, learned counsel, who accepted notice on behalf of the respondent.

3. It appears that the writ petitioner passed S.S.L.C. public examination held in March 1980. He studied the said course as a regular student at the Government High School, Mudis. Upon his passing the said examination, a Secondary School Leaving Certificate was issued by the Board of Secondary Education, Tamil Nadu. His date of birth in the said certificate was recorded as 04.10.1961. Thereafter, he pursued Higher Secondary course from the Government Higher Secondary School, Sankarankovil. He appeared for the examination held in April 1982 and passed the said examination. In that certificate also, his date of birth was recorded as 04.10.1961.

4. The writ petitioner seems to have enrolled his name with the local Employment Exchange and upon being sponsored, he came to be appointed on 24.2.2011 by the Principal District Judge, Coimbatore on temporary basis as an Examiner in Category 6 Class IV of the Tamil Nadu Judicial Ministerial Service and he was posted as Examiner in the District Munsif-cum-Judicial Magistrate Court, Valparai against an existing vacancy. That is how he gained entry into the Tamil Nadu Judicial Ministerial Service on temporary basis on 24.2.2011.

5. Soon thereafter, he approached the Tahsildar, Sankarankovil and filed an application on 10.7.2012 for making an entry in the records maintained relating to registration of births and deaths, requiring his date of birth to be recorded therein as 04.10.1965. Though the said application has been made 47 years after his birth, but, nonetheless, the Tahsildar, Sankarankovil obliged him by entertaining such application dated 10.7.2012 and made an entry in the Register of births that the writ petitioner was born on 04.10.1965 at Perumalpatti, Narikkudi to one Duraipandian and Kaniammal. After recording the said date of birth in the Register, the Tahsildar, Sankarankovil has also issued him the necessary certificate/Extract of entry from the Register on the same date namely 10.7.2012. Based on this certificate/Extract dated 10.7.2012, the petitioner has drawn a representation on 30.1.2013 seeking alteration of his date of birth in his service record as 04.10.1965 as per the birth certificate enclosed thereto instead of 04.10.1961. It is in this backdrop the present writ petition came to be instituted.

6. We are of the opinion that the request made by the petitioner for alteration of the entry relating to his date of birth in his service record cannot be considered for the following reasons :

(i) The writ petitioner appeared for the S.S.L.C. examination conducted by the Board of Secondary Education, Tamil Nadu, in March 1980 and after having passed the said examination, he has been issued a certificate recording therein his date of birth as 04.10.1961. The said certificate bears the signature of the writ petitioner.

(ii) He also appeared for the Higher Secondary examination conducted in April 1982 and in the pass certificate also, his date of birth is recorded as 04.10.1961 and this certificate also bears the signature of the writ petitioner. Though he is a young person at the time when he passed the S.S.L.C. and Higher Secondary examinations, but, nonetheless, it must be inferred that it is within his knowledge that the certificates bear his date of birth as 04.10.1961.

(iii) So far, no attempt appears to have been made to get the date of birth entered in the above referred two certificates altered. Consequently, the scholastic record of the writ

petitioner still reflects the date of birth of the writ petitioner as 04.10.1961.

(iv) Parliament enacted the Registration of Births and Deaths Act, 1969 with a view to maintain accurate countrywide registration data for purposes of national planning, organizing public health and medical activities and various other socio economic welfare measures.

(a) Under Section 3(1), the Central Government has been authorized to appoint a person as Registrar General of India. Under Section 4, the respective State Governments are entitled to appoint a Chief Registrar for every State. Under Section 6, the State Government was empowered to appoint a District Registrar for each Revenue District and such number of Additional District Registrars as it thinks fit, who shall also discharge such functions as District Registrars subject to the general control and direction of the District Registrar. Under Section 7 of the Act, the State Government may appoint a Registrar for each local area comprising the area within the jurisdiction of a municipality, panchayat or other local authority or any other area or a combination of any two or more of them.

(b) Under Sub-Section (2) of Section 7, every Registrar shall, without fee or reward, enter in the register maintained for that purpose, all information given to him under Section 8 or Section 9 and shall also take steps to inform himself carefully of every birth and of every death, which takes place in his jurisdiction and to ascertain and register the particulars in the register. Under Section 8(1), it shall be the duty of the persons specified therein to give or cause to be given either orally or in writing, within such time as may be prescribed, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under Sub-Section (1) of Section 16.

(c) Under Section 10, duty has been cast on certain persons specified therein to notify compulsorily births and deaths. Under Section 12, the extracts of registration entries are liable to be furnished to the person furnishing information under Section 8 or Section 9.

(d) Under Section 13(1), any information relating to any birth or death tendered to the Registrar after the expiry of the period specified there for, within 30 days of its occurrence, shall be registered on payment of such late fee as may be prescribed. Sub-Section (2) of Section 13 makes it obligatory that any delayed information relating to birth or death furnished to the Registrar, after 30 days but within one year of its occurrence, shall be registered only with the written permission of the Prescribed Authority and on payment of prescribed fee and production of an affidavit made before a Notary Public or any other officer authorized in this behalf by the State Government. Sub-Section (3) of Section 13 further makes it clear that any birth or death, which has not been

registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the First Class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee. Thus, under Sub-Section (3) of Section 13, if any information relating to the birth of a person is to be recorded after the expiry of one year from the date of occurrence of such birth, such information shall be registered only based upon an order made by a Magistrate.

7. In the instant case, the writ petitioner appears to have submitted his application on 10.7.2012 before the Tahsildar, Sankarankovil seeking registration of his date of birth as 04.10.1965. That application was entertained by the Tahsildar and he also entered the information in the register maintained and also furnished the extract thereof on the same date namely 10.7.2012 to the writ petitioner.

8. As we have noticed, the application for registration of the date of birth of the writ petitioner has been made 47 years after the occurrence of his birth. There is no record to vouch for the fact that any Magistrate has issued any such order to enable the Registrar to enter the information so furnished in the record/register maintained. Therefore, we are of the opinion that the birth extract produced by the writ petitioner from the office of the Tahsildar, Sankarankovil dated 10.7.2012 can be of no avail, as it cannot be trusted for its correctness.

9. The sheet anchor of the writ petitioner's claim for alteration of the entry in his Service Record relating to his date of birth from 04.10.1961 to 04.10.1965 is the birth extract issued by the Tahsildar, Sankarankovil. Since we have already brought out supra as to how the birth extract certificate issued by the Tahsildar, Sankarankovil lacks credibility, we are of the opinion that the request of the petitioner to alter his date of birth in the service record without securing alteration relating thereto in his scholastic record is not entertainable. Hence, we see no justifiable reason to issue a Writ of Mandamus as prayed for and we hold that this writ petition lacks merit.

10. Accordingly, the writ petition stands dismissed at the admission stage. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

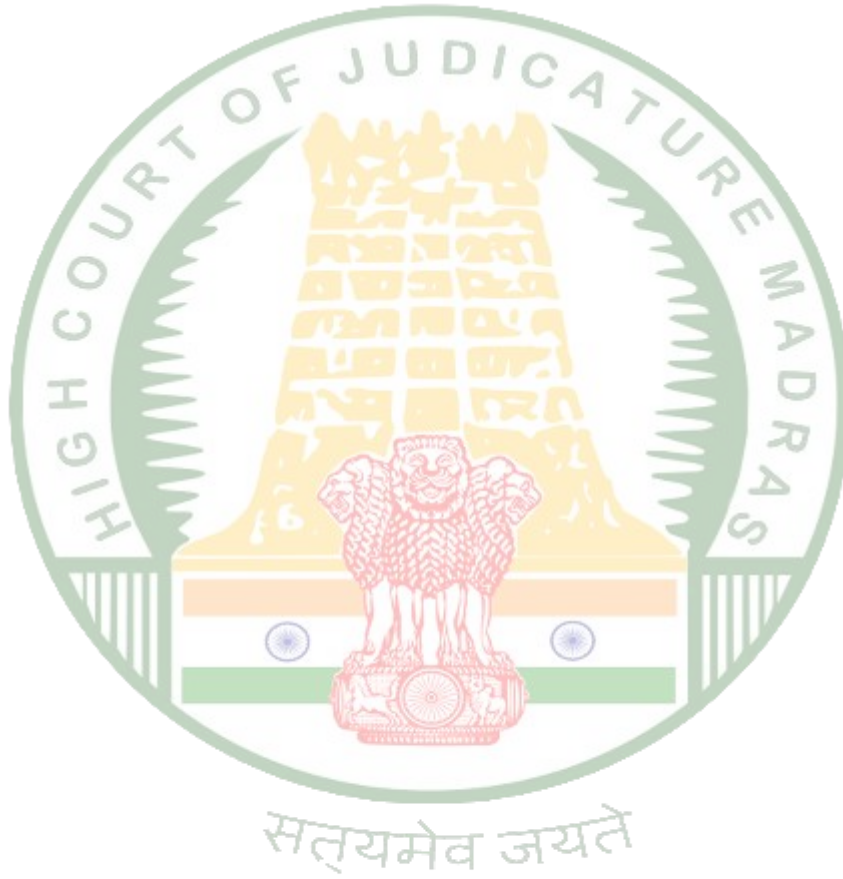
To
The Principal District Judge, Coimbatore District, Coimbatore.

Copy to:
The Tahsildar,
Sankarankoil.

+1 cc to Mr.Prabakaran,advocate,sr.23254.

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