

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.07.2017
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 7988 of 2017

P.Vijayagowri

[PETITIONER]

Vs

- 1 The State of Tamilnadu
rep. by its Principal Secretary
Secretariat, Chennai 600 009
- 2 The Director of School Education
College Road, DPI Campus
Chennai-600 006.
- 3 The Chief Educational Officer
Thiruvarur District, Thiruvarur.
- 4 The District Educational Officer,
Thiruvarur District, Thiruvarur.

[RESPONDENTS]

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to pass orders for alteration of date of birth of the petitioner as 23.8.1968 instead of 20.6.1967 based on the birth extract and other records produced along with the application submitted within the time limit on 30.6.2000 as per the provisions of Tamilnadu State and Subordinate Service Rules with consequential and attendant benefits within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran
For Respondents: Mr.P.Sanjay Gandhi,
Addl.Govt. Pleader

O R D E R

Heard Mr.G.Sankaran, learned counsel appearing for the petitioner and Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents.

2.The prayer sought for in this writ petition is altering the date of birth of the writ petitioner as 23.08.1968 instead

of 20.06.1967, based on the birth extract and other records produced along with the application submitted by her.

3.The factual matrix to be considered in this writ petition are that the writ petitioner was initially appointed as Secondary Grade Teacher and now working as Headmistress of the Government High School, Sengalipuram, Kodavasal Taluk, Thiruvavarur District. The writ petitioner entered into Government service on 27th July, 1995. After joining into the Government service, the date of birth of the writ petitioner was entered on the basis of the School Records produced by her at the time of appointment. The Service Records also carries the date of birth on the basis of the School Records.

4.The learned counsel appearing for the writ petitioner submitted that the Application seeking for alteration of date of birth was submitted on 30th June 2000, by the writ petitioner and the copy of the said application is enclosed at page No.1 of the typed set of papers.

5.On a perusal of the Application, this Court is able to find out that the copy of the Application dated 30th June, 2000, was attested by one Dr.R.J.Ranimuthulakshmi, M.B.B.S., Reg.No.45708, Medical Officer, Panchayat Union Dispensary, Koradacherry, on 28th July 2010. Along with the said letter, the Application in the prescribed format is also enclosed. It is not known to this Court that as to why Application seeking alteration of date of birth was attested by the Medical Officer on 28th July 2010.

6.May that it be. This Court is not able to appreciate the manner in which the first application was filed, since the entire claim of the writ petitioner rested on the Horoscope and other Birth Records and the entry in the Service Register was made based on the School Records and it was continuing till the date of Application i.e. on 30th June, 2000.

7.The learned counsel appearing for the petitioner submitted that the Application seeking alteration of date of birth was admitted by the respondents, since the order of rejection also was issued on 5th December 2003, in which a reference was made regarding the order passed by the Director of School Education, on 6th March, 2003.

8.The grievance of the writ petitioner is that the order of rejection issued by the Director of School Education dated 6th March, 2003, was not communicated to the petitioner, and therefore, she was not in a position to challenge the same. Even, the learned counsel submits that order dated 5th December, 2003, though initially not communicated and subsequently, she is

able to get the said order. After the order of rejection dated 5th December, 2003, no action was taken by the writ petitioner. After a lapse of five years from the date of the order of rejection, the writ petitioner filed a writ petition in W.P.No.30688 of 2008. The prayer sought for in that writ petition was for a direction to the respondents to provide a copy of the order dated 6th March 2003, to her. This Court passed an order on 4th November 2016, directing the respondents to supply the copy of the order issued by the Director of School Education on 6th March, 2003.

9.The learned counsel contended that only after the directions issued in the above Writ Petition, the order dated 14th December 2016, was passed, stating that the files relating to the case was missing and not available in the Department.

10.The Chief Educational Officer, Thiruvavur in his proceedings dated 29th June, 2010, passed an order stating that the application seeking alteration of date of birth filed by the writ petitioner was again rejected by the Director School Education in proceedings Na.Ka.No.1954/C5/E4 dated 2nd February,2010. Though the communication dated 29th June 2010 was received by the writ petitioner, she has not taken any action and the writ petition was pending. Only when the writ petition was taken up for hearing in the year 2016, the petitioner submitted that the copy of the order dated 6th March, 2003, was not communicated and a direction in that regard was passed. However, no reference has been made in respect of the order of the Chief Educational Officer, Tiruvavur, issued in proceedings dated 29th June, 2010.

11.In support of the claim regarding the alteration of date of birth, the petitioner enclosed the Certificate of Birth, issued by the Sub-Registrar, Koothanallur, which was issued on 25.11.1998 (found in page 10 of the typed set of papers). As per the said Certificate of Birth, the date of birth of the writ petitioner was entered as 23.08.1968. When the Certificate of Birth was issued under section 17 of the Registration of Birth and Deaths Act, 1969, by the Sub Registrar, Koothanallur on 25.11.1998, the writ petitioner has not taken any steps immediately and further more, the Certificate of Birth was issued after a lapse of thirty years from the date of birth. The necessity for obtaining such a Certificate of Birth after thirty years from the date of birth is unknown and unexplained in this Writ Petition. The manner in which the Certificate of Birth was issued on 25th November, 1998, is also unknown to this Court. This apart, another Certificate of Birth in Form No.10 was issued relating to the sister of the writ petitioner on 26th February, 1999, yet another Certificate of Birth of another sister was issued on 22nd February, 1999 and thereafter, one

another Certificate of Birth to another sister was issued on 14th June 2005. All the Certificates of Birth of the sisters of the writ petitioner were obtained, after obtaining the Certificate of Birth for the writ petitioner on 25th November, 1998. This Court is unable to believe that the entire family members have obtained the Certificates of Birth only after 25th November, 1998, more than thirty years from the date of birth of the respective sisters of the writ petitioner.

12. The writ petitioner appeared for the S.S.L.C. Examination conducted by the Board of Secondary Grade Education, Tamil Nadu, and after having passed the said examination, she has been issued a Certificate recording therein her date of birth as 20.06.1967. The said certificate bears the signature of the writ petitioner. She also appeared for the Higher Secondary Examination and in that Pass Certificate also her date of birth has been recorded as 20.06.1967, and also bears her signature. Though the writ petitioner was a young person at the time when she passed the S.S.L.C. and Higher Secondary Examinations, but, nonetheless, it must be inferred that it is within her knowledge that the Certificates bear her date of birth as 20.06.1967. 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 20.06.1969.

13. 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.

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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.

14. In the instant case, the writ petitioner appears to have submitted her application in the year 1998, before the Sub-Registrar, Koothanallur, seeking registration of her date of birth as 23.08.1968. That application was entertained by the Sub-Registrar, and he also entered the information in the Register maintained and also furnished the extract thereof on the same date viz. 25th November 1998.

15. As this Court noticed, the application for registration of the date of birth of the writ petitioner has been made thirty years after the occurrence of her birth. There is no record to vouch for the fact that any Magistrate has issued any such order to enable the Sub-Registrar to enter the information so furnished in the record/register maintained. Therefore, this

Court is of the opinion that the birth extract produced by the writ petitioner from the office of the Sub-Registrar, Koothanallur, dated 25.11.1998, can be of no avail, as it cannot be trusted for its correctness.

16. The sheet anchor of the writ petitioner's claim for alteration of the entry in her Service Record relating to her date of birth from 20.06.1967 to 23.08.1968, is based on the birth extract issued by the Sub-Registrar, Koothanallur. Since this Court has already brought out supra as to how the birth extract certificate issued by the Sub-Registrar, Koothanallur, lacks credibility, this Court is of the opinion that the request of the petitioner to alter her date of birth in the service record without securing alteration relating thereto in her scholastic record is not entertainable.

17. This apart, altering the date of birth contrary to that of the date entered in the School Records in which the writ petitioner has got a knowledge, after a lapse of long years, the same cannot be done and this Court cannot encourage these kind of alterations. In view of this, the claim for alteration of date of birth made out by the writ petitioner deserves to be rejected.

18. In the result, the writ petition stands dismissed at the admission stage. No costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

rpa

To

- 1 The State of Tamilnadu
rep. by its Principal Secretary
Secretariat, Chennai 600 009
- 2 The Director of School Education
College Road, DPI Campus
Chennai-600 006.
- 3 The Chief Educational Officer
Thiruvavur District, Thiruvavur.

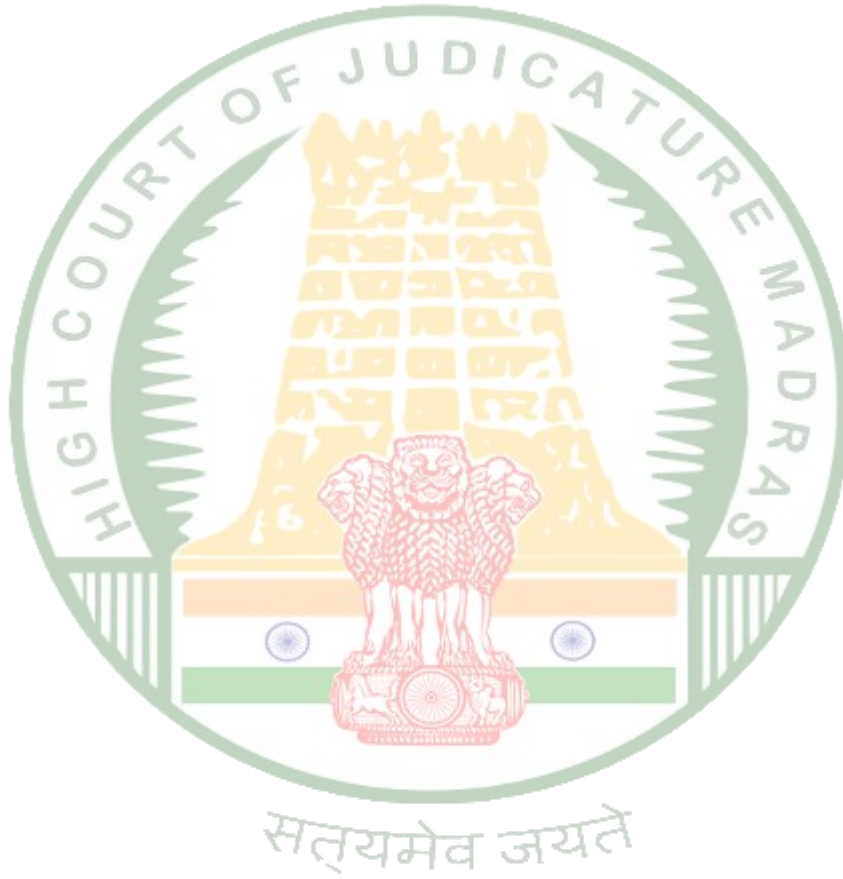
4 The District Educational Officer,
Thiruvarur District, Thiruvarur.

5. The Sub Registrar Koothanallur

+1 cc to Mr.G.Sankaran Advocate sr48866

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