

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.02.2017
CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.34511 of 2015
and
M.P.No.1 of 2015

Unnikrishnan Valiyakkal Gopinath

... Petitioner

Vs

The Regional Passport Officer,
Regional Passport Office, Chennai
Royala Towers, No.2 & 3, IV Floor,
Old No.785, New No.158, Anna Salai,
Chennai 600 002.

...Respondent

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Letter of the Respondent in Ref.No.SCN/303046877/15 dated 10.09.2015 and quash the same and consequently direct the respondent to re-issue passport to the petitioner based on the Application dated 13.08.2015.

For Petitioner : Mr.R.Subramaniam
for M/s.C.K.M.Appaji

For Respondent : Mr.J.Madanagopal Rao

ORDER

This writ petition has been filed to call for the records pertaining to the Letter of the Respondent in Ref.No.SCN/303046877/15 dated 10.09.2015 and quash the same and consequently direct the respondent to re-issue passport to the petitioner based on the Application dated 13.08.2015.

2. It is the case of the petitioner that he was born at Chennai. Due to literacy and ignorance of his parents, his birth was not reported to the Birth and Death Registration Authorities, i.e., Corporation of Chennai. After completion of his education, he has obtained passport vide File No.MASW445269AA from the Regional Passport Officer, Chennai, which was lost subsequently. In the year 1990, he went to Mumbai for work. At that time, he has applied for passport before the

Regional Passport Officer, Mumbai, stating his place of birth as Chittattukara, Chavakkad, Kerala and obtained a passport vide File No.BOMW06003991. Thereafter, he went to Abu Dhabi, UAE and has been working there for the past 25 years by utilising the 2nd passport given by the Regional Passport Officer, Mumbai, which was renewed twice from Abu Dhabi. Since the same was torn of, he has obtained a fresh passport bearing No.J6447812 on 20.04.2011.

3. It is the further case of the petitioner that due to inadvertent mistake, his place of birth has been wrongly mentioned as Chittattukara, Chavakkad, Kerala in his passport. In order to rectify the same, his mother filed a petition in CMP.No.1713 of 2003 before the learned X Metropolitan Magistrate, Egmore, Chennai under Section 13(3) of the Registration of Births and Deaths Act r/w Rule 10(3) of the Tamil Nadu Births and Deaths Registration Rules to declare his date of birth on 29.03.1967 at No.12, H.V.Colony, T.Nagar, Chennai- 600 017 and the said petition was allowed on 07.01.2004. While so, fresh passport No.J6447812 dated 20.04.2011 was misplaced, which compelled the petitioner to apply for re-issue of his passport with a request to change his place of birth as Chennai, instead of Kerala on 13.08.2015. However, the respondent, by letter dated 10.9.2015, advised the petitioner to furnish a revised court order in respect of difference as regards the place of birth found in his passport. Challenging the said letter, the petitioner is before this Court with the present writ petition for the above stated relief.

4. The respondent has filed a detailed counter affidavit dated 20.07.2016, wherein, it has been stated as follows:

4.1 The petitioner had applied for reissue of passport, in lieu of lost passport No.J6447812 dated 20.04.2011 valid till 19.04.2021 issued at Embassy of India, Abu Dhabi vide File No.MA2078726018515. While processing his application, it was noticed that the petitioner had obtained the following passports:

(a) Passport No.K514485 dated 15.12.1991 issued at Mumbai.

(b) Passport No.A8965335 dated 25.06.2001 issued at Abu Dhabi.

(c) Passport No.Z1853117 dated 23.06.2009 issued at Abu Dhabi.

(d) Passport No.J6447812 dated 20.4.2011 issued at Abu Dhabi. In the above passports, his place of birth was mentioned as Chittattukara, Kerala. Suppressing the above passports, he had applied for passport at Regional Passport Office, Chennai, vide File No.MASW445269AA and obtained a passport stating his place of birth, as Chennai, Tamil Nadu. Hence, the petitioner was asked to furnish his explanation regarding possessing two set of passports with different place of birth.

4.2 The petitioner, in his explanation dated 16.8.2015, had admitted that he inadvertently obtained two set of passports.

Further, he declared his place of birth as 'Chennai', but his birth was not registered at the time of his birth. While the petitioner was living in UAE during the year 2003, his mother, Smt.Chandra had obtained birth certificate vide Registration No.153644/2004 dated 8.1.2004 issued by the Corporation of Chennai, as per the order of the 10th Metropolitan Magistrate Court, Chennai dated 7.1.2004. It is also noted that the petitioner's mother did not disclose the fact regarding the possession of passport by the petitioner with different place of birth as 'Chittattukara, Kerala' before the 10th Metropolitan Magistrate Court, Chennai.

4.3 Though the petitioner had obtained birth certificate during the year 2004, he had renewed his passport twice from Abu Dhabi, stating his place of birth as 'Chittattukara, Kerala'. Hence, he was advised to furnish a revised court order with regard to difference in place of birth in his passport, by the impugned communication dated 10.9.2015.

5. Learned counsel for the petitioner would contend that the petitioner was born only in Chennai. However, due to inadvertent mistake, in the passport, his place of birth was wrongly stated as Chittattukara, Chavakkad, Kerala. Hence, his mother approached the Court concerned and obtained an order dated 07.01.2004, with regard to the petitioner's place of birth as Chennai. Despite the order of the Court, the respondent directed the petitioner to once again approach the court concerned and obtain a revised order with regard to difference about the place of birth in his passport, by the impugned communication, which is arbitrary, illegal and without any basis. Therefore, learned counsel prayed for setting aside the same and directing the respondent to issue a passport with the petitioner's place of birth as Chennai.

6. Reiterating the averments made in the counter affidavit, learned standing counsel for the respondent would contend that the communication issued by the respondent is perfectly correct and no interference is warranted.

7. Heard both sides and perused the records.

8. Admittedly, the petitioner had obtained two set of passports i.e., one at Chennai and another at Mumbai. It is the specific case of the petitioner that he did not use the passport issued by the Regional Passport Officer, Chennai at any point of time and he lost the same subsequently. According to the petitioner, he has been using the second passport issued by the Regional Passport Officer, Mumbai, wherein, his place of birth was mentioned as Chittattukara, Chavakkad, Kerala, due to inadvertent mistake, which was renewed twice on 25.6.2001 and

23.06.2009 at Abu Dhabi. Since the said passport was torn of, he had obtained a fresh passport bearing No.J6447812 on 20.04.2011 at Abu Dhabi, which was subsequently misplaced. Therefore, he has made an application dated 13.08.2015 for reissue of a passport with his place of birth as Chennai, to which, the respondent advised the petitioner to furnish a revised court order with regard to the difference about his place of birth stated in his passport, by the communication dated 10.09.2015, which is impugned herein.

9. It is pertinent to mention here that in order to rectify the mistake crept in the passport of the petitioner, with regard to his place of birth as Kerala, instead of Chennai, his mother Chandra had approached the learned X Metropolitan Magistrate, Egmore, Chennai by filing CMP No.1713 of 2003 and obtained an order dated 07.01.2004 declaring his place of birth as Chennai. Pursuant to the same, she had obtained a birth certificate of the petitioner from the Chennai Corporation. Enclosing the said court order and the birth certificate issued by the Registering authority, the petitioner has applied for reissue of a passport with his place of birth as Chennai, instead of Kerala.

10. As rightly pointed out by the respondent in his counter affidavit, had the petitioner been born at Chennai, he could have brought it to the notice of the Passport Authority at the earliest point of time, but he failed to do so at the time of obtaining the second passport from the Regional Passport Officer, Mumbai as well as at the time of renewal at Abu Dhabi. In the mean while, the petitioner's mother approached the X Metropolitan Magistrate Court, Egmore seeking permission to change his place of birth as Chennai in his passport. In fact, apart from the petitioner's mother, a relative has been examined before the learned Magistrate concerned and he stated that the delivery of the petitioner was in the house. Based on the evidence adduced, the learned Magistrate passed the order dated 07.01.2004 permitting the petitioner's mother to register the birth of the petitioner. Pursuant to the same, the birth of the petitioner was registered with the Chennai Corporation on 08.01.2004 itself. Even thereafter, the petitioner failed to disclose his place of birth as Chennai, at the time of obtaining passports on 23.06.2009 and 20.04.2011 at Abu Dhabi.

11. This Court is of the view that if the contention of the petitioner that due to inadvertent mistake, in his passport, he has declared his place of birth as Kerala, instead of Chennai, is really a bona fide one, he should have brought about the birth certificate issued by the Corporation of Chennai during the year 2004, to the notice of the passport authority and sought for change of his place of birth as Chennai, instead of

Kerala at the relevant point of time, but he himself obtained renewal of passport on 23.06.2009 and fresh passport on 20.04.2011 at Abu Dhabi, declaring his place of birth as Kerala. Apart from that, the petitioner himself admitted that he had obtained two passports at Chennai and Mumbai and he never used the first passport issued at Chennai.

12. Thus, for the reasons stated above, this Court finds no reason to interfere with the impugned communication issued by the respondent herein, which in my opinion, is perfectly right.

13. In the result, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Regional Passport Officer,
Regional Passport Office, Chennai
Royala Towers, No.2 & 3, IV Floor,
Old No.785, New No.158, Anna Salai,
Chennai 600 002.

+lcc to Mr.Subramanian, Advocate, S.R.No.7507

+lcc to Mr.Madanagopal, Advocate, S.R.No.7269

+lcc to the Government Pleader, S.R.No.8272

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GJII (CO)
RS (05/04/2017)

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