

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.05.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33643 of 2013

and

M.P.Nos 1 and 2 of 2013 and 1 of 2014

K.Thulasiraman

.. Petitioner

vs.

1. State of Tamil Nadu,
Housing and Urban Development,
Secretariat, Chennai 600 008.
 2. Secretary to the Government,
Personnel & Administrative Reforms Department,
Secretariat, Chennai 600 008.
 3. The Member Secretary,
Chennai Metropolitan Development,
Authority, Gandhi-Irwin Road,
Egmore, Chennai 600 008
- ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st Respondents comprised in letter No.9435/Ud2.2/2002-9 dated 07.04.2003 rejecting the application of petitioner for alteration of the date of birth in his service register and quash the same and consequently, directing the 1st and 2nd respondents to consider the application submitted by the petitioner on merits and alter his date of birth as per the documentary evidence provided by the petitioner in a time bound manner and in any event within a period of one month.

For Petitioner : Mr.R.Parthasarathy
For R1 & R2 : Mr.K.Dhanajeyan
Spl.Govt.Pleader
For R3 : Mr.A.Kumar

O R D E R

The writ petitioner was initially appointed as Planning Assistant Gr-II in the Chennai Metropolitan Development Authority, on 16th October 1981. His date of birth, in all his service records, was entered based on the school records, which was produced by the writ petitioner at the time of his appointment. The respondents were maintaining the service record and as per the school records, the petitioner's date of birth is 06.06.1959. All of a sudden, the writ petitioner submitted an application to the third respondent on 06.08.1986 stating that his date of birth in his service records was wrongly entered and his actual date of birth is 06.09.1960. Therefore, the petitioner requested the authorities for alteration of his date of birth from 06.06.1959 to 06.09.1960.

2. Though the writ petitioner had submitted his application on 06.08.1986 seeking alteration of his date of birth, the impugned order in this writ petition was issued only in a letter dated 7th April 2003 after a lapse of 17 years.

3. The learned counsel appearing for the writ petitioner submitted that pursuant to the application, by sending various remainders and documents sought for by the authorities were also supplied by the writ petitioner with a hope that his date of birth will be altered. But the third respondent has given a rejection order only after a lapse of 17 years and thereafter the writ petition was filed.

4. Even assuming that the impugned order was passed by the respondent on 7th April 2003, the writ petition is filed only in the year 2013, after a lapse of 10 years again. The writ petitioner was aged about 53 years at the time of filing of the writ petition. At the outset, the application seeking alteration of the date of birth was filed on 06.08.1986. The impugned rejection order was issued by the third respondent on 07.04.2003 and the writ petition was filed on 9th December 2013.

5. The date of birth of the writ petitioner was recorded in the service register of the writ petitioner based on the S.S.L.C. and College Certificates. There is no clerical error on the part of the respondent in entering the date of birth of the writ petitioner in the service records. The said School and College certificates bear the signature of the writ petitioner. Therefore, the writ petitioner is within his knowledge that the school and college certificates bear his date of birth as 06.06.1959.

6. The learned counsel appearing for the writ petitioner now taken us to to page No.9 of the petition of the index of the typed set of documents in which birth certificate registration

extract of petitioner issued by the Sub-Registrar, Mohanur, which was issued on 5th March 1987 after filing of the application with the respondent seeking alteration of date of birth. Therefore, the writ petitioner after filing an application for alteration of his date of birth obtained birth certificate from the Sub-Registrar, Mohanur and relied on the same for the purpose of alteration. His grievances regarding the alteration of date of birth cannot be considered for the following reasons :

(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 this case, the writ petitioner appears to have submitted an application in the year 1987 and obtained a birth certificate on 5th March 1987. On seeing of the certificate, it is clear that an application was submitted and simultaneously a certificate from Sub-Registrar, Mohanur was also received. Now the learned counsel submits that the birth certificate was issued based on the original records of birth which was registered but there was no document to substantiate the said contention as seen that the birth certificate was issued after a lapse of 28 years from the date of birth. The method of issuing such certificate by the authorities in contradiction to the provision of the Act is to be depreciated.

8. In any event, the writ petitioner was appointed in the year 1981 and made an application on 06.08.1986 and rejection

order was passed on 7th April 2003 and thereafter, the writ petition was filed on 9th December 2013.

9. Considering the above facts and date on which, the matter was taken by the writ petitioner, this Court is not inclined to consider the grounds raised in the writ petition and accordingly, the writ petition is devoid on merits and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

kkd

To

1. The Secretary to Government,
Housing and Urban Development,
State of Tamil Nadu,
Secretariat, Chennai 600 008.
2. Secretary to the Government,
Personnel & Administrative Reforms Department,
Secretariat, Chennai 600 008.
3. The Member Secretary,
Chennai Metropolitan Development,
Authority, Gandhi-Irwin Road,
Egmore, Chennai 600 008.

+1cc to R.Parthasarathy, Advocate Sr. 37063

W.P.No.33643 of 2013
and
M.P.Nos 1 and 2 of 2013 and 1 of 2014

NR(CO)
VR(19/5/2017)