

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 16.08.2017****CORAM:****THE HONOURABLE MR.JUSTICE R.MAHADEVAN****W.P (MD) No.14284 of 2017**

Pethaperumal

.. Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Anna Maligai, Madurai.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent in (H.5)O.Mu.9921/2006, dated 22.03.2016 and quash the same and consequently direct the respondent to carry out corrections in respect of the name of the petitioner's father as per the petitioner's representation dated 08.03.2016 in the Death Registers and issue amended death certificate of the petitioner's father within the time frame fixed by this Court.

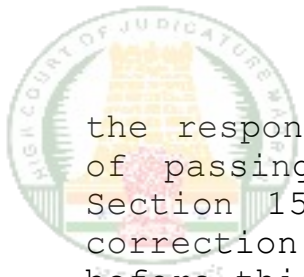
For Petitioner : Mr.R.Vijayakumar

For Respondent : Mr.R.Prabhu Ramachandran

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order passed by the respondent in (H.5)O.Mu.9921/2006, dated 22.03.2016 and direct the respondent to carry out corrections in respect of the name of the petitioner's father as per the petitioner's representation dated 08.03.2016 in the Death Registers and issue amended death certificate within the time frame fixed by this Court.

2.The case of the petitioner is that his father, namely, A.R.Sevugan Chettiar, was known and called as SV.AR.SV. @ A.R.Sevugan Chettiar @ SV.AR.SV.Thannimalai Chettiar. He died on 17.08.2004. According to the petitioner, the death certificate issued by the respondent dated 31.08.2004 reflects his name only as SV.AR.SV. @ A.R.Sevugan Chettiar and his calling name, SV.AR.SV.Thannimalai Chettiar, has not been included in the said certificate. Therefore, he submitted a representation dated 08.03.2016 to the respondent along with necessary documents. But,



the respondent has rejected the request of the petitioner by way of passing the impugned order, dated 22.03.2016, stating that Section 15 of the Birth and Death Act, 1969 only provides for correction of spelling mistake. Therefore, the petitioner is before this Court.

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3. Heard both sides.

4. It is seen from the impugned order that the respondent has rejected the claim of the petitioner with regard to change of name of his father in the death certificate, by way of passing the impugned order, stating that the typographical error alone can be rectified. The said observation made in the impugned order is straight away against Section 15 of the Birth and Death Act, 1969 and the same reads as follows:

"If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and all there-to the date of the correction or cancellation".

5. As per the said provision, the error crept-in in the name in any form or substance related there-to can also be rectified. Under such circumstances, the impugned order, which lacks the consideration of Section 15 of the Birth and Death Act, 1969, is liable to be set aside and accordingly the same is set aside and the matter is remitted back to the respondent for fresh consideration, who shall consider the representation of the petitioner dated 08.03.2016 afresh, in the light of Section 15 of the Birth and Death Act, 1969 and pass appropriate orders, after affording due opportunity of hearing to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

6. The writ petition is allowed on the above terms. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

The Commissioner,
Madurai Corporation,
Anna Maligai, Madurai.

+1cc to Mr.R.Prabhu Ramachandran, Advocate SR.No.72776

SMN

VB/SKN/RSK/SAR1/30.08.2017/3P/3C

ORDER MADE IN
W.P(MD)No.14284 of 2017
16.08.2017