

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.2050 of 2017

ORDER:

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The petitioner states that he completed SSC at Nizamabad in the year 2009 and thereafter, he completed Intermediate, BCA and MBA. When he was a minor, his parents obtained passport in his name on 09.09.1998, which was valid up to 08.09.2008. In the said passport, the date of birth was mentioned as 14.05.1994. He applied for fresh passport in view of the expiry of the previous passport and the fresh passport was issued on 29.08.2016 with the same date of birth as 14.05.1994, whereas the correct date of birth was 14.12.1993. When he noticed the incorrect date of birth in the fresh passport, he submitted a representation to the 2nd respondent on 10.10.2016 seeking correction. By impugned order dated 21.10.2016, the said application for correction was rejected on the ground that it was time barred case as per Section 4(iii) of Ministry's Circular dated 26.11.2015. Hence, the present writ petition was filed.

3. In the present case, the petitioner was not seeking correction of date of birth in the old passport. The old passport was expired on 08.09.2008. He applied for fresh passport clearly stating in the application the correct date of birth as 14.12.1993 as entered in the SSC, Adhar card, Voters card, Pan card and ration card. In spite of the same, based on the date of birth mentioned in the old passport, the 2nd respondent issued the new passport on 29.08.2016. Since the mistake occurred due to the action of the office of the 2nd respondent, the 2nd respondent should have corrected the passport by issuing a fresh

passport with correct date of birth. But based on para 4(iii) of the Circular dated 26.11.2015, the application of the petitioner was rejected.

4. Para 4(iii) of the Office memorandum dated 26.11.2015 reads as under:

“4(iii) The cases where the applicant comes to PIA for change/ correction with regard to date of birth in the Passport after a period of five years from the date of issue of passport with alleged wrong date of birth, no such request shall be entertained/ accepted by the PIA and be rejected out rightly.

However, an exemption in this regard may be given to an applicant who was minor at the time when passport with alleged wrong date of birth was issued to him. As and when such an applicant after attaining the age of majority applies for the passport with the request to change the date of birth in the passport issued to him when he was minor, the PIA irrespective of the duration of the issuance of passport may accept his case for consideration and if is satisfied with the claim and his case for consideration and if is satisfied with the claim and document(s) submitted by the applicant, may accept his request for change of date of birth in the passport without imposition of any penalty.”

5. In the instant case, the first passport was issued to the petitioner when he was minor. After attaining the majority, the petitioner applied for fresh passport. A reading of the above para also enables the Passport Authority to correct the date of birth. Here, it is not the case of correction of date of birth mentioned in the passport. But it is a case of issuance of fresh passport with correct date of birth by taking into consideration of the date of birth mentioned in various documents submitted by the petitioner. The 2nd respondent should have exercised the power and issued the fresh passport with correct date of birth.

6. In the circumstances, the impugned order dated 21.10.2016 passed by the 2nd respondent is set aside and the matter is remanded to the 2nd respondent for issuance of fresh passport to the petitioner with correct date of birth, within 15 days from the date of receipt of a copy of this order. If the petitioner is required to surrender his new passport with incorrect date of birth, the petitioner shall so surrender the same and on such surrender, fresh passport with correct date of birth shall be issued to the petitioner.

7. The writ petition is, accordingly, allowed. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed in consequence.

Date: 10.04.2017
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A. RAMALINGESWARA RAO, J



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