

HON' BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.35272 of 2017

ORDER:

Heard the learned counsel for the petitioner and Sri K. Lakshman, learned Asst. Solicitor General for the respondent and perused the prayer in the writ petition with the supporting affidavit and the material on record.

The prayer in the writ petition reads as follows:-

“to pass an order direction or writ more particularly one in the nature of writ of mandamus declaring the action of respondent in not correcting the date of birth of the petitioner in his passport No E900069 as 15 06 1967 instead of 07 03 1963 despite of specific application dated 30 08 2017 submitted by the petitioner as it being arbitrary illegal unjustified and in violation of procedure laid down under the Pass Ports Act 1967 and consequently to direct the respondent to correct the date of birth as 15 06 1967 instead of 07 03 1963 in the passport No E900069 of the petitioner and pass such other”

The rejection order of the respondent, dt.07.09.2017 in Hy3070518921117 indicates the refusal to correct the date of birth saying as per the latest circular of the Ministry of External Affairs, dt.22.09.2016 para-1(iv), the cases of the applicant comes to PIA for change/correction with regard to date of birth in the passport after a period of 5 years from the date of issue of initial passport with alleged wrong date of birth, cannot be entertained.

In fact, it is the submission of the learned counsel for the petitioner referring to the subsequent Official Memorandum of the Government of India, Ministry of External Affairs, CPV Division, dt.22.09.2016 bearing No.VI/ 401/ 2/ 5/ 2001 in modification of the same particularly from clause No.2, sub-clause-(i) which reads as follows:-

“The PIA shall consider the explanation of each applicant seeking change in the DOB to find the genuineness of the claim even though more than five years have elapsed after the issue of the passport”

“Following judicial pronouncements made after the issue of the Official Memorandum, dt.26.11.2015 and 13.01.2016, the following are the additional guidelines for PIA on the above subject i) The PIA shall consider the explanation of each applicant seeking change in the Date of Birth to fine the genuineness of the claim even though more than 5 years have lapsed after the issue of a passport.”

Having regard to the above, the refusal to entertain the application of the petitioner on the ground of more than 5 years lapsed from the date of the initial issue of the passport is unsustainable as the respondent is bound to entertain the application and consider the explanation of the applicant for the change of date of birth if at all genuine to consider by passing appropriate orders.

Accordingly and in the result, the Writ Petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

26.04.2018

Note: Issue copy tomorrow(27.04.2018).

b/ o.vvr