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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 31.07.2019

+ LPA 46/2019

THE REGIONAL PASSPORT OFFICER Appellant
Through: Mr. Rajesh Gogna, CGSC with
Mr.Upendra Sai & Mr. Kamaldeep, Advs.

versus

JATIN SAINI & ANR Respondents
Through: Mr. Shekhar Nanavaty, Adv. for R-1
Mr. Tarveen Singh Nanda, Standing Counsel for
R-2

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL. 2987/2019 (*condonation of delay in filing appeal*)

This application has been preferred under Section 5 of the Limitation Act, 1963 for condonation of delay of 44 days in preferring this appeal.

For the reasons stated in the application, delay of 44 days in filing the appeal is condoned.

The application stands disposed of.

LPA 46/2019

1. This letters patent appeal has been preferred by the original respondent against order dated 29.10.2018 passed by writ Court in W.P. (C) 11669/2018. The W.P. (C) 11669/2018 was preferred by the present respondent for reissuance of the passport with necessary correction in the

date of birth.

2. We have heard the counsels for both sides at length and it appears from the facts of the case that the date of birth of respondent (original petitioner) had been duly recorded with births and deaths registration authority as 21.12.1995 and the birth certificate was issued to that effect. On the basis of this birth certificate, application was preferred by the mother of the respondent (original petitioner) for getting a passport from the appellant (original respondent). At the relevant time the respondent (original petitioner) was a minor and therefore the mother had also filed an affidavit stating the date of birth as 21.01.1995 which was recorded by the authority under The Registration of Births and Deaths Act, 1969 (hereinafter referred to as “the Act, 1969”).

3. It appears that thereafter another birth certificate had also been issued by the concerned authority under the Act, 1969 stating the date of birth of the respondent (original petitioner) as 21.01.1995. The respondent (original petitioner) has now applied for renewal of the passport with the date of birth as 21.01.1995. The correction in the entry of the registration is in accordance with law, especially under Section 15 of The Registration of Births and Deaths Act, 1969. For the ready reference Section 15 reads as under:

“15. Correction or cancellation of entry in the register of births and deaths. — 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 add

thereto the date of the correction or cancellation.”

4. Now there is only one birth certificate which reveals the date of birth of respondent (original petitioner) as 21.01.1995. This appellant has never challenged the correction of the date of birth issued by the authority under the Act 1969. Thus, the cancellation of the earlier birth certificate by the authority under the Act, 1969 has attained its finality.

5. In view of the aforesaid facts, now there is one date of birth of the respondent as per the certificate issued by the authority under the Act, 1969 which reveals the date of birth of the respondent (original petitioner) as 21.01.1995. Hence, the appellant has no option but to accept the only certificate which is in existence under the Act, 1969. Now, there are no two birth certificates under the Act, 1969.

6. These aspects of the matter have been properly appreciated by the learned Single Judge while disposing of W.P.(C) 11669/2018 *vide* judgment and order dated 29.10.2018. Hence, we are in full agreement with the finding of the learned Single Judge in the order dated 29.10.2018 and see no reason to allow this letters patent appeal.

7. With the aforesaid observation, we hereby dismiss this appeal.

CM APPL.2983/2019 (Stay) & 2986/2019 (Permission)

8. In view of the order passed in LPA 46/2019, these applications also stand disposed of.

CHIEF JUSTICE

JULY 31, 2019/ns

C.HARI SHANKAR, J