

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 13.03.2020

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Writ Petition No.22734 of 2019 and

W.M.P.Nos.22263 & 22264 of 2019

R.Kothandam

Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai - 7.

2.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Chepauk, Chennai - 5.

3.The Sub-Collector,
Tindivanam,
Villupuram District.

4.The Revenue Divisional Officer,
Tindivanam.

Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of Certiorari and Mandamus call for the records of the respondent in connection with the impugned order issued by the respondents 1 and 2 in Rc.No.COP/Pen.I/1/163/2018, CPO.No.3201/2018 dated 30.10.2018 Letter No.RA 3(3)/61260/2011 dated 24.10.2018 respectively and quash the same and further direct the 1st respondent to alter the date of birth as 10.03.1962 and grant all other consequential service and monetary benefits.

For Petitioner : Mr.R.Dhineshkumar

For Respondents : Mr.J.Pothiraj,
Special Government Pleader

ORDER

The petitioner has approached this Court, seeking the following prayer:-

"To call for the records of the respondent in connection with the impugned order issued by the respondents 1 and 2 in Rc.No.COP/Pen.I/1/163/2018, CPO.No.3201/2018 dated 30.10.2018 Letter No.RA 3(3)/61260/2011 dated 24.10.2018 respectively and quash the same and further direct the 1st respondent to alter the date of birth as 10.03.1962 and grant all other consequential service and monetary benefits."

2.According to the petitioner, in the birth extract, his correct date of birth is shown as 10.03.1962. But, when he was admitted in the school, his parents had inadvertently given the date of birth of his as 22.10.1960. The learned counsel for the petitioner would submit that in view of the unimpeachable document produced namely, the birth extract, it is incumbent on the part of the authorities to act upon.

3.Mr.J.Pothiraj, learned Special Government Pleader appearing for the respondents would submit that as per the directions of the respondents 1 and 2 when the Sub Collector, Tindivanam was directed to enquire about the claim of the petitioner, after conducting a detailed enquiry, a report was submitted, stating that the claim of the petitioner was not valid and in fact, the birth extract which is being relied on by the petitioner is not traceable at all.

4.An elaborate report was submitted by the Sub Collector, Tindivanam after conducting a detailed enquiry that the claim of the petitioner for change of his date of birth is not supported by any unimpeachable documents. On the basis of such report, the rejection order came to be passed by the respondents 1 and 2.

5.From the above narrated facts, this Court has to see 'whether the prayer as sought in the writ petition could be considered by this Court'. At this stage, there appears to be serious dispute with regard to the documents produced by the petitioner and the enquiry conducted at the instance of the respondents. There appears to be factual dispute in regard to the claim of the petitioner and the counter response of the respondents.

6.In view of the disputed questions of facts involved in this case, this Court exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, cannot adjudicate upon the factual controversies and disputes. In view

of the same, this Court is of the considered view that the writ petition cannot be entertained for the reason that there are disputed questions of facts which cannot come within the adjudicatory realm of writ jurisdiction.

7. In view of all the above, the writ petition stands dismissed and it is always open to the petitioner to approach the competent Court to declare his date of birth. This Court, while dismissing the writ petition has not expressed any opinion about the merits and demerits of the claim of the petitioner. Liberty is always with the petitioner to work out his remedies in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Jbm
To

1. The Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai - 7.

2. The Additional Chief Secretary /
Commissioner of Revenue Administration,
Chepauk, Chennai - 5.

3. The Sub-Collector,
Tindivanam,
Villupuram District.

4. The Revenue Divisional Officer,
Tindivanam.

+1cc to Mr. R. Dhinesh Kumar, Advocate, S.R.No. 22542
+1cc to the Government Pleader, S.R.No. 25208

W.P.No.22734 of 2019

RGN(CO)
GN(25/06/2020)