



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6626 of 2019

V.Balaji

... Petitioner

Vs.

1.The Commissioner,
Dindigul Corporation Office,
Dindigul.

2.The Municipal Welfare Officer,
Dindigul Corporation Office,
Dindigul.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for documents pertaining to the impugned order passed by the 2nd respondent vide Na.Ka.No.807/2019/H3 dated 30.01.2019 and quash the same as erroneous and may consequently direct the respondents to issue birth certificate to the petitioner in the name of V.Balaji.

For Petitioner : (*)**Mr.M.Viji**
For Respondents : Mr.J.Lawrance

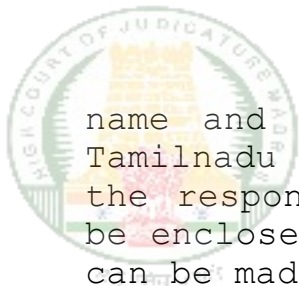
O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned standing counsel appearing respondents/corporation.

2.The petitioner sought change in respect of his name in his birth certificate but the respondents by the impugned order rejected his request. Questioning the same, this writ petition has been filed.

3.The respondents have filed a detailed counter affidavit and the learned standing counsel appearing for the respondents reiterated the contentions set out therein.

4.The case of the petitioner is that he has since changed his



name and the changed name has also been duly published in the Tamilnadu Government Gazette. The learned standing counsel for the respondents points out that the said Gazette publication can be enclosed along with the original birth certificate and the same can be made use for all purposes.

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5. Though I find the submission of the learned standing counsel to be persuasive, the learned counsel appearing for the petitioner brought to my attention to the order dated 07.01.2016 made in W.P.No.30766 of 2015 (S.K.Syed Rafiullah V. The District Collector and Another). The learned Judge in the said order had held as follows:-

5. In the case of A. James V. The Commissioner of Kodaikanal Municipality, an issue arose as to whether the name of the person could be corrected in the Birth Certificate by correcting a mistake which according to the petitioner therein was due to inadvertence. The Madurai Bench of this Court, after taking into consideration of the earlier order passed in W.P.No.296 of 2007, dated 14.06.2007, directed the authorities to effect the correction. The operative portion of the order in W.P. (MD).No.7303 of 2014 dated 10.06.2014, reads as follows:

"3. Today when the matter was taken up for hearing, the learned counsel for the petitioner submitted that in identical matter, this Court following the judgment in W.P.No.296 of 2007, dated 14.06.2007, directed the respondents to amend the birth certificate within a specified time. Hence, following the same, a similar order has to be passed. The relevant portion of the judgment delivered by this Court in W.P.No.296 of 2007 dated 14.06.2007, reads as follows:

"3. It is a matter of fact that the claim of the petitioner deserves to be considered since the same has been changed through the Gazette Publication. Under the circumstances, by granting the relief sought for by the petitioner in the writ petition to have his name changed in the school register, by effecting the necessary changes in the birth certificate, neither the Government nor the school authorities is going to have a serious prejudice caused to them considering the purpose of issuance of certificate as per the enactment.

4. Learned counsel appearing for the respondent submitted that there are no provision to effect the same. It is not necessary that the Act should contain Rule for every aspect, particularly in matters where such amendments are not going into the root of the matter when other things are satisfied namely, the



date of birth, parents name etc. and Gazette Publication recording the change in the name of the child.

5. In the circumstances, the concerned authorities are hereby directed to effect the necessary change in the birth certificate as per the Tamil Nadu Gazette Notification and the school authority is also directed to carry out the necessary change thereon."

4. The dictum laid down in the above order, is squarely applicable to this case. In the present case also petitioner's daughter name has been published as 'Priya' in the Government Gazette. In such circumstances, there cannot be any impediment for the respondents to correct the same in the birth certificate. Hence, the writ petition is allowed and the concerned respondent is directed to issue birth certificate to the petitioner's daughter who was born on 08.02.1979, and corrected as 'Priya' as per the publication made in the Government Gazette on 27.06.2012, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

6. The respondents are unable to distinguish the aforementioned decision nor pointed out as to in what manner it is distinguishable on the facts of the present case. In fact, in the said case, the correction was sought for after 32 years after the petitioner was born, whereas the petitioner has come before this Court to correct the name of the petitioner's son less than two years of his birth. Therefore, no prejudice would be caused, especially when the correct name has been published in the Tamil Nadu Government Gazette and also in the Newspapers.

7. In the light of the above, the Writ Petition is allowed and the impugned order is quashed and the 2nd respondent is directed to issue Birth Certificate to the petitioner's son, who was born on 01.11.2012 and correct the same as "R.Amanullah" as per publication made in the Government Gazette dated 09.10.2013, within a period of three weeks from the date of receipt of a copy of this order. No costs.

6. In my view the aforesaid decision is squarely applicable.

7. The petitioner's original name was R.N.V.Ragavan. He was born on 24.10.1995. The birth certificate issued by the respondents says so. Later, the petitioner got his name changed as V. Balaji. It was also duly published in the Tamilnadu



Government Gazette, dated 30.03.2005. A copy of the same has also been enclosed in the typed set of papers. The petitioner now wants the corresponding correction to be made in the birth certificate.

8. Since the impugned dated 30.01.2019 issued by the respondents is not in tune with the aforesaid order dated 07.01.2016 made in W.P.No.30766 of 2015, I have to necessarily quash the same. It is accordingly quashed. The respondents are directed to issue a fresh birth certificate as sought for by the writ petitioner. The writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

**(*) Corrected as per order of
this Court dated 15.09.2020**

/ /2020

Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

**(*) to be substituted the order already despatched on
14/09/2020**

1. The Commissioner,
Dindigul Corporation Office,
Dindigul.
2. The Municipal Welfare Officer,
Dindigul Corporation Office,
Dindigul.

+1 CC to Mr.J.LAWRENCE, Advocate SR-16539.

W.P. (MD) No. 6626 of 2019
10.09.2020

CS (14.09.2020) 4P 4C
TR (15/09/2020) 4P 4C