



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.11.2020
CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

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W.P(MD)No. 842 of 2014

P. Vanitha

... Petitioner

Vs.

1. The Secretary,
Arulmigu Palani Andavar Arts College for Women,
Palani.

2. The Joint Director of Collegiate Education,
Madurai Region,
Vaidyanathaiyar Street, Shenoy Nagar,
Madurai - 625020.

3. The Commissioner,
Dindigul Municipality.

... Respondents

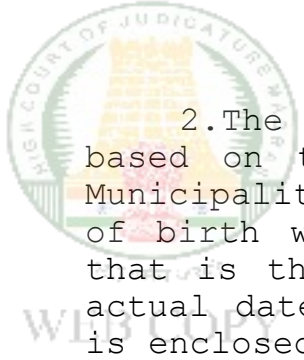
[R-3 is Suo Motu impleaded vide Court Order
dated 02.11.2020.]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a ***Writ of Certiorarified Mandamus***, calling for the records connected with the impugned order passed by the 1st respondent in his proceedings Na.Ka.No. A1/26/2011 dated 18.02.2011 and the consequential order passed by the 1st respondent in his proceedings R.C No. 891/2012/C6 dated 28.10.2013 and quash the same and consequently direct the respondents to alter the date of birth of the petitioner as per the Birth Extract issued by the Registrar of Births and Deaths, Dindigul Municipality dated 05.01.2009 and in the light of the Judgment of this Honourable court reported in (2009) 8 MLJ 1109 and in 2011 (1) CWC 811.

For Petitioner : Mr.S. Govindan
For Respondent-1 : Mr.K. Govindarajan
For Respondent-2 : Mr.J. Gunaseelan Muthiah
Additional Government Pleader
For Respondent-3 : Mr.J. Lawrance

ORDER

The order impugned dated 18.02.2011 passed by the first respondent and the consequential order passed by the first respondent on 28.10.2013 are under challenge in the present writ petition.

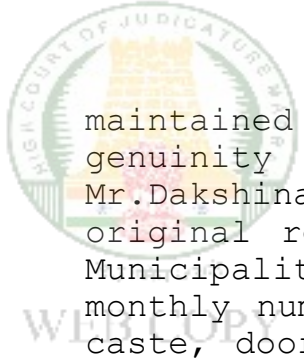


2.The writ petitioner seeks alteration of date of birth solely based on the birth extract issued by the Commissioner, Dindigul Municipality dated 05.01.2009. The petitioner states that her date of birth was noted as 15.08.1970 in her S.S.L.C. certificate and that is the wrong date of birth. The petitioner claims that her actual date of birth is 13.03.1972. The S.S.L.C. mark sheet which is enclosed in page No.8 of the typed set of papers reveals that the date of birth of the writ petitioner is 15.08.1970. All along the petitioner was following date of birth entered in her school records. Thereafter, she was appointed in the respondent/college and obtained a birth certificate from the Dindigul Municipality which is enclosed in page No.13 of the typed set of papers filed along with the writ petition. As per the said birth certificate, the date of birth of the writ petitioner was mentioned as 13.03.1972.

3.The learned counsel for the petitioner made a submission that the petitioner has submitted an application to the respondents seeking alteration of date of birth. In view of the fact that the application was submitted within the time limit, the respondents are bound to consider the same. However, the Secretary of the college passed an order in proceeding dated 18.02.2011 stating that the date of birth of the petitioner was entered in her service records based on the S.S.L.C. certificate and based on the other educational certificates. However, the birth certificate issued by the Dindigul Municipality on 05.01.2009 after a prolonged period stating that the date of birth of the petitioner as 13.03.1972 cannot be accepted and the educational certificates produced was relied upon and entries were made in the service register and therefore the claim of the petitioner was rejected. The petitioner again submitted an application and filed a writ petition. A direction was issued to consider the representation of the writ petitioner and pass an order on merits and in accordance with law.

4.Pursuant to the order of this Court, the impugned order is passed by the first respondent in proceeding dated 28.10.2013. As per the said impugned order, the date of birth of the writ petitioner was recorded as 15.08.1970 in all her service records and the date of birth was entered based on the educational certificates produced by the writ petitioner at the time of appointment. The said application was rejected mainly on the ground that there is no provision in the respondent/college Rules to change the date of birth already given by the petitioner. Thus, the Secretary passed an order stating that the petitioner may take an appropriate action before the appropriate forum to alter the date of birth in accordance with law. The date of birth entered in the educational certificates are not altered. It remains as 15.08.1970. However, the petitioner relied on the birth certificate issued by the Dindigul Municipality on 05.01.2009.

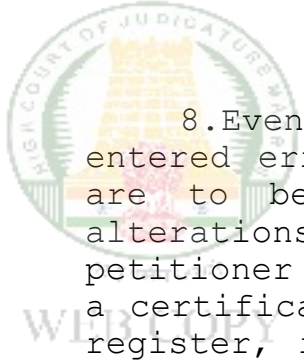
5.On seeing the certificate issued by Commissioner, Dindigul Municipality, this Court summoned the original birth register



maintained by the Dindigul Municipality in order to ascertain the genuinity as well as the facts. The Sanitary Inspector one Mr.Dakshina Murthy, appeared before this Court along with the original records. Verification of the register of births in the Municipality of Dindigul, the register contains annual number, monthly number, name of the child, male or female, nationality and caste, door number and the street as well as the ward or division, name of the father, name of the mother and age of the mother at confinement, number of the live birth, occupation of the father or mother, date of birth, date of registration, mark or signature of the informant, resident of the informant, relationship of the informant of the name of the child, signature of registrar and midwife or doctor who attended the birth and qualified or unqualified in the case of midwife and finally remarks.

6.Perusal of the entire register reveals that the name of the child are not entered and in one or two cases, the names are inserted subsequently after registering the birth. At page No.30 of the original register in Annual No.319, Monthly No.91, it is entered as a female child born to one Mr.Palanisamy and Nachammal. In the said entry the name of the petitioner Srimathy.Vanitha was inserted on 23.12.2008. However, the certificate was issued on 05.01.2009 . The learned counsel appearing for the respondent states that based on the application submitted by the writ petitioner, the insertion was made. However, the insertion appears to be without any authority and without conducting any enquiry and further without even verifying the facts whether the entry made in the year 1972 pertains to the birth of the writ petitioner or not.

7.Such insertions are made in the original register in a doubtful manner and the authorities competent after a lapse of about 36 years from the date of entry in the birth register or inserting the name based on a mere representation by some persons, the authenticity as well as the trustworthiness of such entry cannot be taken into consideration for the purpose of altering the date of birth in order to extend the services of the petitioner. In other words, such insertions made after lapse of 36 years in an original birth register by the Municipality cannot be trusted upon and there is possibility of corrupt activity in making such entries. It appears to be so. However, an enquiry is to be conducted by the authorities competent to ascertain on what basis and under what provision of law, such insertion was made after lapse of 36 years in the original register. Even incase some births are to be verified and certificates are to be issued the authority competent has to issue certificate based on the entries made and they are not empowered to insert some name and issue birth certificate in such name. Undoubtedly certificates can be issued by verifying the original entries made in the birth register. However, in this case the insertion of the name of the petitioner was suspiciously made. In one or two entries such suspicious entries were made by the Municipality. However, largely no such entries or insertions were made stating the name of the child who born in the year 1972.



8. Even in case the date of birth of the writ petitioner was entered erroneously in her school records then appropriate actions are to be taken by approaching the competent forum and such alterations can be made only after complete adjudication and the petitioner has to prove beyond any pale of doubt. Merely, obtaining a certificate from the Municipality and on verification of original register, it is found that the name of the petitioner was inserted after a lapse of about 36 years from the date of birth as per the entry, then such certificate cannot be trusted upon for the purpose of altering the date of birth in the service records of the writ petitioner. The Commissioner, Dindigul Municipality, is directed to conduct an enquiry in these aspects and initiate appropriate action against the erred officials.

9. As far as the alteration of date of birth is concerned a birth certificate obtained after a lapse of about 36 years from the date of birth of the writ petitioner cannot be taken into consideration for altering date of birth in service register. Right from the year 1972, the petitioner is maintaining her date of birth as 15.08.1970. When the petitioner is maintaining the said date of birth during her studies and even at the time of appointment, all of a sudden, she approached the Dindigul Municipality in the year 2008 and made insertions in the original birth register and thereafter, obtained a certificate on 05.01.2009 and made an application, seeking alteration of date of birth in the service register. Such certificate issued without adjudication and without any basis cannot be relied upon for the purpose of altering date of birth which is otherwise accepted by the petitioner for more than 36 years.

10. This being the factum established, the writ petitioner is not entitled for alteration of date of birth as prayed for. Consequently, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

as/ksa

To

1. The Secretary,
Arulmigu Palani Andavar Arts College for Women,
Palani.



2. The Joint Director of Collegiate Education,
Madurai Region,
Vaidyanathaiyar Street, Shenoy Nagar,
Madurai - 625020.

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3. The Commissioner,
Dindigul Municipality.

+1 CC to Mr.J.LAWRANCE, Advocate SR-21985.
+1 CC to Mr.S.GOVINDAN, Advocate SR-21987.
+1 CC to Mr.K.GOVINDARAJAN, Advocate SR-21990.
+1 CC to the SPL GP SR-22023.

W.P[MD)]No. 842 of 2014
11.11.2020

ARK (CO)
CS (27.11.2020) 5P 8C