

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.3.2021

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.NO.4712 OF 2021

A.P.Suryaprakasam

Petitioner

vs.

The Zonal Health Officer (V.S.),
Public Health Department,
Greater Chennai Corporation,
Rippon Buildings,
Chennai 600 003.

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records pertaining to the order of the respondent dated 12.1.2021 in P.H.D.ZHO(VS)/C.No./0013/2021 to quash the same and consequentially direct the respondent to include the petitioner's date of birth as 15.11.1951 in the register maintained by the respondent and issue a corrected date of birth certificate showing the petitioner's name as Suryaprakasam and the date of birth as 15.11.1951.

For Petitioner : Mr.A.P.Suryaprakasam, Party in person
For Respondent : Ms.P.T.Ramadevi, Standing Counsel

ORDER

This writ petition is filed as against the order of the first respondent in P.H.D.ZHO(VS)/C.No./0013/2021 dated 12.1.2021 in and by which the request of this petitioner for correction of Date of Birth of the petitioner in the Birth Register was rejected by the respondent Corporation.

2. The case of the petitioner is that his Date of Birth is 15.11.1951 and his original Date of Birth has been recorded in all his original Certificates viz., SSLC Book, Passbook, Aadhar Card, Driving Licence, PAN Card, etc. However, the Date of Birth has been inadvertently recorded as 23.12.1952 instead of 15.11.1951 in the Birth Register. The petitioner noted this anomaly only recently when he has downloaded the extract of the online Birth Register maintained by the respondent from the

respondent's portal. In this regard, it appears that the petitioner has made a representation to the respondent on 17.9.2020 requesting them to make correction of the petitioner's date of birth in the register maintained in the office of the respondent and the same was rejected by the impugned order stating that as per the information provided to the Corporation, the Date of Birth has been recorded as 23.12.1952 and as per Section 15 of the Birth and Death Act, 1969 and the Rules, the Date of Birth can be changed, however, the respondent, vide the impugned order advised the petitioner to move necessary applications to modify the Date of Birth in all other documents based on the original date of birth mentioned in the Birth Certificate as maintained by the respondent.

3. Mr.Suriyaprakasam, the petitioner, who appeared as party in person, submitted that he is aged about 68 years and has crossed the qualifying age for Government or any other employment and he has noted down this mistake recently when he has intended to apply for Visa to stay with his son who is residing in abroad. The petitioner has also pointed out the date of birth which is mentioned in all other records viz., SSLC Book, Passbook, Aadhar Card, Driving Licence, PAN Card, etc.

4. Ms.Ramadevi, learned Standing Counsel appearing for the respondent Corporation submitted that the entry in the Birth Register is made only on the basis of the information provided to the respondent Corporation and it is not inadvertently made.

5. Though the respondent claims that it has not been inadvertently made, the fact remains that in all the other documents, the date of birth of the petitioner is mentioned as 15.11.1951 and not as 23.12.1952 and in the Birth Register alone, it is mentioned as 23.12.1952 where it has been inadvertently mentioned. As rightly pointed out by the petitioner, he is aged about 68 years and has crossed the qualifying age for employment in Government or in any other employment and any change of date of birth would not affect the respondent Corporation in any manner, however, this petitioner is directed to correct the date of birth in all other documents such as SSLC Book, Passbook, Aadhar Card, Driving Licence, PAN Card, etc., which would be a difficult process.

6. Section 15 of the Birth and Death Act, 1969 is extracted hereunder:-

"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.

7. Rule 11(4) of the Births and Deaths Register Rules, 1999 reads as under:-

"If any person asserts that any entry in the Register of Births and Deaths is erroneous in substance the Registrar may correct the entry in the manner prescribed under Section 15 upon production by that person the declaration setting forth the nature of the error and true facts of the case made by two creditable persons having knowledge of the facts of the case".

8. By referring these relevant provisions and by following the earlier orders passed by this court in V.Vaishnvee v. The Commissioner of Greater Chennai Corporation, Chennai and another in W.P.No.28929 of 2017, this court, in W.P.No.880 of 2021 (S.Malleswari v. Zonal Health Officer (pu.ve)) dated 19.2.2021, has held as follows:-

"8. As seen from the Section 15 of the Registration of Births and Deaths Act, 1969, the respondent is empowered to correct any errors in the Birth certificate. However, as seen from the impugned order, by total application of mind to Section 15 of the Registration of Births and Deaths Act, 1969, the respondent has rejected the petitioner's application seeking for correction in her birth certificate. Hence, the impugned order will have to be necessarily quashed, in the light of Section 15 of the Registration of Births and Deaths Act, 1969.

9. In the decision referred to supra, a positive direction was issued by this Court for correction of the error that had crept in the birth certificate. In this case also a positive direction can be given by this Court in view of the fact that excepting for the birth certificate other Government records including Passport, School Leaving Certificate, Aadhar card and other revenue records mentions the name of the

petitioner as only Malleswari and not Maheshwari. No prejudice will be caused to the respondents, if a positive direction is issued by this Court.

10. For the foregoing reasons, the impugned order dated 09.09.2020 passed by the respondent is hereby quashed and the writ petition is allowed..."

9. In view of the said statutory provisions and the earlier orders of this court, this writ petition is allowed with a direction to the respondent Corporation to correct the date of birth as 15.11.1951 instead of 23.12.1952 in the Birth Register maintained by the Corporation, within a period of four weeks from the date of receipt of a copy of this order. No costs.

-s/d-

Assistant Registrar(I)

True Copy

Sub-Assistant Registrar

ssk.

To

The Zonal Health Officer (V.S.),
Public Health Department,
Greater Chennai Corporation,
Rippon Buildings,
Chennai 600 003.

+1cc to M/s.P.T.Ramadevi, Advocate, Sr.No.18323

W.P.No.4712 of 2021

NMI (CO)
KKV/01/04/2021

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