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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A.No.1132 of 2021 and
C.M.P. Nos.7111 and 13895 of 2021

Zonal Health Officer (Pu.Ve)
Birth & Death Section
Public Health Department
Greater Chennai Corporation
Ripon Buildings
Chennai - 600 003

... Appellant/Petitioner

Vs.

1. S.Malleswari

2. Registrar of Births and Deaths
Public Health Department
Greater Chennai Corporation
Ripon Buildings
Chennai - 600 003

... Respondents/Respondents

(R2 suo motu impleaded vide this
judgment)

Prayer : Writ Appeals filed under Clause 15 of Letters Patent
against the order dated 19.02.2021 made in W.P.No.880 of 2021.

Prayer in W.P.No.880 of 2021:

To issue a Writ of Certiorarified Mandamus, to call for
records pertaining to the order of the respondents date 9.9.2020
pothu.Thu.Su/Ma.Na.A (pu.Ve) Na.Ka.No. /0115 /2020 to quash the
same and consequently direct the respondent to correct the error
and insert the name of the petitioner as Malleswari in the place
of Maheswari and issue a fresh corrected birth certificate to
the petitioner.



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For Appellant : Mrs.Karthika Ashok

For Respondents: Mr.A.P.Surya Prakasam for R1

J U D G M E N T

PUSHPA SATHYANARAYANA, J.

The Birth and Death Section of the Greater Chennai Corporation, has preferred this intra-court appeal against the order of the learned single Judge dated 19.02.2021 made in W.P.No.880 of 2021, directing them to correct the error in the Birth Certificate of the first respondent/writ petitioner and issue a fresh Birth Certificate.

2. The name of the first respondent herein, who is the writ petitioner, is 'Malleswari'. Excepting her Birth Certificate, which is now in question, where her name has been wrongly spelt as Maheswari, in all the other documents of the respondent herein, namely the Passport, School Leaving Certificate, Aadhar Card and other revenue records, her name is spelt as Malleswari.

3. It appears that the name of the first respondent herein has been entered as Maheswari instead of Malleswari, which would only be a typographical error, which went unnoticed. When the first respondent herein/writ petitioner had applied for correction of her name under Section 15 of the Registration of Births and Deaths Act, 1969, it was rejected by the authorities, without application of mind.

4. The writ petition filed challenging the order of rejection, was allowed by this court, based on a decision of the Single Bench order dated 27.11.2017 in V.Vaishnavee vs. The Commissioner of Greater Chennai Corporation, Chennai and another in W.P. No.28929 of 2017. The first respondent herein/writ petitioner also has given Gazette Publication on 03.11.2020 that she will be henceforth known as Malleswari and not Maheswari.

5. Section 15 of the Births and Deaths Act, 1969, is as follows:

"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



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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 and 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."

6. The above provision empowers the authorities to correct or cancel the entry in the Register of Births and Deaths when it is proved that the entry made is erroneous or fraudulent or improper. In the given case, it is only a mistake in the spelling, which led to the change of name of the first respondent herein. When the other records produced by the first respondent had her name correctly spelt as Malleswari, the name entered as Maheswari by mistake, Section 15 provides for a remedy to correct the same. By way of abundant caution, the first respondent also has given a Gazette Publication and hence there cannot be any impediment for the authorities to change the name of the first respondent from Maheswari to Malleswari in the Birth Certificate. When the statute itself provides for correction of wrong entries, the authorities need not reject the same driving the citizens to the court to get an order.

7. Unfortunatley, the Registrar of Births and Deaths, Greater Chennai Corporation, Chennai, is not made as a party in the writ petition and appeal. Therefore, this court suo motu impleads the Registrar of Births and Deaths, Public Health Department, Greater Chennai Corporation, Ripon Buildings, Chennai - 600 003, as the second respondent in the appeal.

8. In view of the above facts and as per Section 15 of the Births and Deaths Act, 1969, the appellant is empowered to make the correction and re-issue the Birth Certificate of the first respondent. Accordingly, the writ petitioner is directed to furnish the relevant documents to the Registrar of Births and Deaths for the above said purpose, within a period of two weeks from the date of receipt of a copy of this judgment from the website and the second respondent is directed to consider and pass appropriae orders on merits and in accordance with Law, after issuing a notice to the writ petitioner, namely the first respondent herein and also affording an opportunity of personal hearing, if need be, within a period of two weeks thereafter.



9. With the above direction, the writ appeal is disposed of. However, there is no order as to costs. Consequently, the connected civil miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Asr
To

1.The Zonal Health Officer (Pu.Ve)
Birth & Death Section,
Public Health Department,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003.

2. The Registrar of Births and Deaths,
Public Health Department,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003.

+1cc to Mrs.Karthikaa Ashok, Advocate SR.47307
+1cc to Mr.A.P.Surya Prakasam, Advocate SR.46742

W.A.No.1132 of 2021 and
C.M.P. Nos.7111 and 13895 of 2021

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srg 12/10/2021