



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-12-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.22993 of 2016

Mrs.Swapna Mohanan

.. Petitioner

vs.

1.Union of India,

Represented by the Chief Secretary to Government,
Government of Union Territory of Puducherry,
Chief Secretariat,
Puducherry.

2.The Tahsildar, Mahe.

3.The Deputy Tahsildar,
Mahe.

4.The Deputy Director (Administration),
School Education Department,
Government of Union Territory of Puducherry,
Puducherry.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent relating to the impugned order dated 14.06.2016 bearing Ref.No.26/STOM/T3/2016 and quash the same and consequently direct the respondents to issue Nativity cum Residence Certificate to the petitioner.

For Petitioner : Mr.K.Prasanna for
Mr.T.Sai Krishnan

For Respondents : Mr.R.Syed Mustafa,
Special Government Pleader
(Puducherry).

O R D E R

The order impugned dated 14.06.2016 rejecting the claim of the petitioner for grant of Nativity Certificate, is under



challenge in the present writ petition.

2. The petitioner states that she is fully qualified to be appointed as a Primary School Teacher and the third respondent issued a Notification on 02.11.2015, inviting applications for appointment to the post of Primary School Teacher. The petitioner applied for the said post and was selected.

3. On selection, the candidates have to submit the required fresh Nativity/Residence Certificate, as there are many issues involved in the matter of submission of Nativity Certificate by the candidates.

4. The petitioner applied for the Nativity Certificate and the said application was rejected on the ground that the petitioner was not ordinarily residing in Mahe within the territorial jurisdiction of the Union Territory of Puducherry. Challenging the said order, the petitioner moved the present writ petition.

5. The learned counsel for the petitioner strenuously contended that the petitioner was born at Mahe and her father was employed in the Electricity Department of Union Territory of Puducherry. Both her father and herself were continuously residing in Mahe and therefore, she is entitled for Nativity Certificate and thus, the rejection order is not in accordance with the Government guidelines issued for issuance of Nativity Certificate.

6. The learned counsel for the petitioner is of an opinion that the petitioner was residing continuously at Mahe and she produced all the relevant documents and evidences to establish the same and in spite of that, the order impugned has been issued by the third respondent.

7. The counter-affidavit filed by the third respondent reveals certain facts. The guidelines issued by the Secretary (Revenue), Puducherry vide Order No.6260/C2/Rev/2003, dated 06.10.2003 for the issue of Residence Certificate states that:

i) The candidate or whose parent (either Mother or Father or Both) or Guardian (in the case of children, who have lost both the parents) has been residing continuously in this Union Territory for at least five years preceding the date of application;



ii) Those who have passed SSLC/HSC or any other public examination and for that purpose had undergone academic studies continuously for 5 successive classes immediately preceding the qualifying examination (including the year of the qualifying examination) in recognized educational institution(s) located in Puducherry Union Territory and having their residence in Puducherry Union Territory for 5 years continuously during that period;

iii) Children of Central/State Government Servants/Defence Personnel/Central Paramilitary Forces/Employees of Public Sector Undertakings wholly or substantially run either by the Central Government or by the Puducherry Union Territory Administration posted and serving in the Puducherry Union Territory for atleast a minimum period of one year prior to the last date of submission of application;

iv) Children of Defence Personnel, who were killed or disabled in action and children of Central Government Servants/Puducherry Union Territory Government Servants/Defence Personnel/Employees of Public Sector Undertakings as referred in category (iii) who died while in service in Puducherry Union Territory;

v) Children of Defence Personnel, who were killed or disabled in action and children of Central Government Servants/Puducherry Union Territory Government Servants/Defence Personnel/Employees of Public Sector Undertakings as referred in category (iii) who died while in service in Puducherry Union Territory;

vi) French Nationals residing at the Puducherry Union Territory and covered by the terms of the Treaty of Cession shall be treated on par with the candidates, who produce the prescribed Puducherry Union Territory Residence Certificate. Such French Nationals will not be required to produce Residence Certificate, instead they should produce a Certificate of Registration issued for this purpose from the French Consulate at Puducherry. Children of these French Nationals shall not be considered for admission under the quota of non-residents.

8. As per G.O.Ms.No.48, dated 12.12.2002 of Revenue Department, Puducherry, the following criteria prescribed for determining the status of Nativity in respect of any applicant whether by birth or by continuous residence:

a) Nativity by birth: The applicant should have been born



in the Union Territory of Puducherry and should have been ordinarily residing within the Union Territory prior to the date of application. In order to satisfy the criterion of "ordinarily resident", the person should have been staying either by himself or with his family within the Union Territory of Puducherry continuously with a clear intention of residing there permanently, but for temporary absences from such place of residence for reasons of job or education, etc. As long as the applicant is able to establish satisfactorily his intention to return to his place of residence on the conclusion of such temporary absence, he may be considered to be a person ordinarily residing in the Union Territory.

b) Nativity by continuous residence : The applicant should have been residing continuously for five years in the Union Territory prior to the date of the application.

9. Pertinently with reference to the facts of the case of the petitioner is concerned, the respondents have conducted an elaborate enquiry and the findings of the concerned Field Officers are stated in paragraphs-9 and 10 of the counter-affidavit, which read as under:-

"9. It is submitted that Thiru K.Mohanan, Father of the petitioner Tmt.Swapna Mohanan has submitted an application on 30.05.2016 for Nativity Certificate for his daughter for the purpose of submitting to Directorate of School Education for Primary School Teacher Certificate verification. In that application, he has mentioned his address as "C-2 Block, Room No.1, Government Quarters, Mundock, Mahe". The Village Administrative Officer, Mahe, after field enquiry on the residence status of Tmt.Swapna Mohanan has reported on 01.06.2016 that she and her family are not residing in Mahe Region for the past five continuous years preceding the date of his application i.e., 30.05.2016 and she is residing at Champad of Kannur District of Kerala State. The findings of the Village Administrative Officer were confirmed by the Revenue Inspector. Hence, the Deputy Tahsildar (Revenue), Mahe, has rejected his request.

10. It is submitted that aggrieved by the said rejection, Tmt.Swapna



the United Arab Emirates (U.A.E.). After making all such enquiries, the Authorities could able to find that the petitioner is not ordinarily residing within the Territorial Jurisdiction of Mahe and Union Territory of Puducherry and accordingly, rejected the Nativity Certificate. Such factual findings made by the Competent Authorities, after conducting enquiry, cannot be interfered with by this Court in the writ proceedings under Article 226 of the Constitution of India.

12. If at all any error or mistake in respect of the factual aspects, it is for the petitioner to submit all necessary evidence for correction or otherwise. If the petitioner is of an opinion that the factual details recorded by the Enquiry Officers are incorrect, then she has to submit all necessary documents or evidences to resubmit the same.

13. Contrarily, this Court cannot consider those disputes. However, the fact remains that an elaborate enquiry was conducted by the Competent Authorities, namely, The Deputy Tahsildar, Revenue, Village Administrative Officer as well as the Regional Administrator.

14. In view of the fact that all the concerned officials had conducted an enquiry, verified the facts and thereafter rejected the claim of the petitioner for grant of Nativity Certificate, this Court do not find any reason to interfere with the order impugned and consequently, the writ petition fails and the same stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Chief Secretary to Government,
Union of India,
Government of Union Territory of Puducherry,
Chief Secretariat,
Puducherry.



2.The Tahsildar,
Mahe.

3.The Deputy Tahsildar,
Mahe.

4.The Deputy Director (Administration),
School Education Department,
Government of Union Territory of Puducherry,
Puducherry.

+1cc to Mr.T.Saikrishnan, Advocate SR.No.65026

+1cc to the Government Pleader SR.No.65093

WP 22993 of 2016

PL(CO)
GN(17/12/2021)