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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.21794 OF 2021

AND

W.M.P.NOS.22978 & 22979 OF 2021

G. Arunachalam

.. Petitioner

Versus

The Commissioner
Births and Deaths
Puducherry Municipality
Mudaliyarpet
Puducherry

.. Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings No.115/PM/RBD/NC/2021 dated 20.09.2021 and delete/quash insofar as Column No.5 of the impugned order and issue a consequential direction to the respondent to change/correct the petitioner's wife name as Sumathi instead of Rani in petitioner's son's birth certificate within a time frame fixed by this Court.

For Petitioner : Ms. Kannimozhi Mathi
for Mr.A.Rajarajan

For Respondent : Mrs. G.D. Jearany,
Government Advocate (Puducherry)

O R D E R

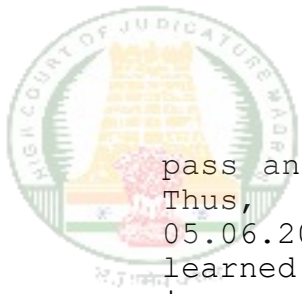
The petitioner has filed this writ petition praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings No.115/PM/RBD/NC/2021 dated 20.09.2021, delete/quash the same insofar as it relates to the remarks made in Column No.5 of the order and issue a consequential direction to the respondent to change/correct the



petitioner's wife name as SUMATHI instead of RANI in his son's birth certificate within a time frame fixed by this Court.

2. The petitioner claims to be a permanent resident of Union Territory of Puducherry. His Son Babu, born on 10.08.1978, is working as a Software Engineer in United States of America. It is also stated that the birth of his son was duly registered with the respondent - Municipality. It is further stated that the petitioner's son is in the process of obtaining permanent resident Visa in United States of America for which purpose, he required the birth certificate. It is at this stage, the petitioner noticed that at the time of registering his son's birth, his name was registered as Arounasalam (for Arunachalam), his son's name was registered as Babou (instead of Babu) and his wife name was erroneously indicated as Rani instead of Sumathy. On noticing this defect, the petitioner submitted representations on 13.01.2021 and 29.03.2021 to effect changes in the name of his wife in the birth certificate issued to his son. As there was no response, the petitioner filed WP No. 9532 of 2021 before this Court and this Court passed an order dated 01.09.2021 directing the petitioner to appear before the respondent and produce necessary documents. Further, on such appearance and production of documents, the respondent was directed to consider the petitioner's representation and pass necessary orders. Pursuant to such direction, the petitioner appeared before the respondent on 20.09.2021 and produced documentary evidence. Even though the respondent effected change of the names of the petitioner and his son as 'Arunachalam' and 'Babu' respectively in the birth certificate of his son, the respondent refused to change the name of his wife as 'Sumathy' on the ground that there is no valid document produced to show that the name of his wife is Sumathy and not Rani. Aggrieved by the order dated 20.09.2021 of the respondent, the petitioner has filed this writ petition.

3. The learned counsel for the petitioner would submit that the Aadhar card of his wife as well as other documents have been produced wherein her name was clearly mentioned as A. Sumathy, however, the respondent did not consider the same. The learned counsel for the petitioner also placed reliance on the order dated 05.06.2020 passed by this Court in WP No. 25374 of 2019 wherein it was observed that the Registrar for Births and Deaths is the competent authority for correcting the errors which had crept in due to inadvertence in the birth certificate. Therefore, this Court directed the petitioner therein to appear before the respondent and to produce all the documentary evidence in support of his claim and on receipt of the same, the Registrar of Births and Deaths was directed to consider it and



pass an order on merits after affording opportunity of hearing. Thus, by placing reliance on the aforesaid order dated 05.06.2020 passed by this Court in WP No. 25374 of 2019, the learned counsel for the petitioner prayed for setting aside the impugned order and to issue appropriate direction to the respondent to consider the claim of the petitioner.

4. On the above contentions, this Court heard the learned Government Advocate (Puducherry) and perused the materials placed.

5. It is seen from page No. 10 of the typed set of papers that in the Aadhar card of the petitioner's wife, her name was clearly mentioned as Sumathy. Similarly, in page No.2 of the typed set of papers, the certificate of birth of the petitioner's daughter is enclosed in which the name of the petitioner's wife is mentioned as Sumathy. The same is in the case of the birth certificate issued to the petitioner's second son, which is enclosed in page No.3 of the typed set of papers. In Page No.6 of the typed set of papers, the petitioner has enclosed the Hindu Marriage Register pertaining to his son's marriage with one Saranya. In the said certificate, the name of the wife of the petitioner is mentioned as Sumathi. While so, the impugned order dated 20.09.2021 was passed by the respondent with the observation that "no valid document corroborating the claim was submitted by the applicant". When the Aadhar Card and other documentary evidences have been filed by the petitioner, the respondent, without considering the same, has passed the order dated 20.09.2021 refusing to effect change of the name of the petitioner's wife in the birth certificate issued to the petitioner's son, which cannot be countenanced by this Court.

6. In view of the above, the order dated 20.09.2021 of the respondent, in so far as it relates to the refusal on the part of the respondent to effect change of the name of the petitioner's wife as A. Sumathy in the birth certificate issued to the petitioner's son, alone is set aside. The matter is remanded back to the respondent for fresh consideration. The respondent is directed to consider the claim of the petitioner on merits and on the basis of the documents to be produced by him, after affording an opportunity of hearing to the petitioner. The petitioner is also directed to produce all the documentary evidences in his possession to the respondent for consideration. The respondent is directed to complete the above exercise within a period of six weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. No costs. Consequently, connected WMP No. 22978



and 22979 of 2021 are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrr/rsh

To

The Commissioner,
Births and Deaths,
Puducherry Municipality,
Mudaliyarpet,
Puducherry.

+2ccs to Mr.A.Rajarajan, Advocate, S.R.No.56413

+1cc to the Government Pleader for Pondicherry S.R.No.56375

WP No. 21794 of 2021

KSM(CO)
PM/22/11/2021