



BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 21.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.161 of 2021

(Through Video Conferencing)

WEB COPY

Pandiselvi

... Petitioner

Vs.

1.The Commissioner
Periyakulam Municipality
Periyakulam.

2.The Registrar
Birth & Death
Periyakulam Municipal Office,
Periyakulam.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the 1st respondent in Na.Ka.No.1337/H1/dated 09.10.2020 and quash it as illegal and also direct the 1st respondent to enter the present name of the petitioner (PANDISELVI) as published in the Tamilnadu Government Gazette on 17.12.2014 and issue a fresh birth certificate to the petitioner within a stipulated time.

For Petitioner :Mr.J.Madhu
For Respondents :Mr.M.Lingadurai
Government Advocate(Civil)

ORDER

This writ petition has been filed challenging the impugned communication of the first respondent dated 09.10.2020, wherein, the first respondent has refused to entertain the application given by the petitioner seeking for correction of the name of the petitioner.

2. The case of the petitioner is that she was born on 07.09.1993 and it was also registered on the file of the second respondent. While registering the birth certificate, the name of the petitioner was recorded as Vijaya Priya. Subsequently the name of the petitioner was changed as Pandiselvi. This name is found in all the subsequent records right from the school transfer certificate, degree certificate, community certificate, Adhaar card and also electoral ID card.

3. The petitioner made an application before the first respondent seeking for the correction of the name found in the birth certificate and the same came to be rejected through the impugned



communication dated 09.10.2020. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents.

WEB COPY

5. In the considered view of this Court, several orders have been passed by this Court, wherein, this Court has taken into consideration the fact that except the birth certificate, in all the other certificates, the name is different and therefore, this Court had directed appropriate correction to be made in the birth certificate also. Useful reference can be made to the order passed by this Court in W.P.(MD)No.6626 of 2019, dated 10.09.2020. The relevant portions in the order are extracted hereunder:

"5.Though I find the submission of the learned standing counsel to be persuasive, the learned counsel appearing for the petitioner brought to my attention to the order dated 07.01.2016 made in W.P.No.30766 of 2015 (S.K.Syed Rafiullah V. The District Collector and Another). The learned Judge in the said order had held as follows:-

5.In the case of A.James V. The Commissioner of Kodaikanal Municipality, an issue arose as to whether the name of the person could be corrected in the Birth Certificate by correcting a mistake which according to the petitioner therein was due to inadvertence. The Madurai Bench of this Court, after taking into consideration of the earlier order passed in W.P.No.296 of 2007, dated 14.06.2007, directed the authorities to effect the correction. The operative portion of the order in W.P.(MD). No.7303 of 2014 dated 10.06.2014, reads as follows:

"3.Today when the matter was taken up for hearing, the learned counsel for the petitioner submitted that in identical matter, this Court following the judgment in W.P.No.296 of 2007, dated 14.06.2007, directed the respondents to amend the birth certificate within a specified time. Hence, following the same, a similar order has to be passed. The relevant portion of the judgment delivered by this Court in W.P.No.296 of 2007 dated 14.06.2007, reads as follows:

"3.It is a matter of fact that the claim of the petitioner deserves to be considered since the same has been changed through the Gazette Publication. Under the circumstances, by granting the relief sought for by the petitioner in the writ petition to have his



WEB COPY

name changed in the school register, by effecting the necessary changes in the birth certificate, neither the Government nor the school authorities is going to have a serious prejudice caused to them considering the purpose of issuance of certificate as per the enactment.

4.Learned counsel appearing for the respondent submitted that there are no provision to effect the same. It is not necessary that the Act should contain Rule for every aspect, particularly in matters where such amendments are not going into the root of the matter, when other things are satisfied namely, the date of birth, parents name etc. and Gazette Publication recording the change in the name of the child.

5.In the circumstances, the concerned authorities are hereby directed to effect the necessary change in the birth certificate as per the Tamil Nadu Gazette Notification and the school authority is also directed to carry out the necessary change thereon."

4.The dictum laid down in the above order, is squarely applicable to this case. In the present case also petitioner's daughter name has been published as 'Priya' in the Government Gazette. In such circumstances, there cannot be any impediment for the respondents to correct the same in the birth certificate. Hence, the writ petition is allowed and the concerned respondent is directed to issue birth certificate to the petitioner's daughter who was born on 08.02.1979, and corrected as 'Priya' as per the publication made in the Government Gazette on 27.06.2012, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

6.The respondents are unable to distinguish the aforementioned decision nor pointed out as to in what manner it is distinguishable on the facts of the present case. In fact, in the said case, the correction was sought for after 32 years after the petitioner was born, whereas the petitioner has come before this Court to correct the name of the petitioner's son less than two years of his birth. Therefore, no prejudice would be caused, especially when the correct name has been published in the Tamil Nadu Government Gazette and also in the Newspapers.



7. In the light of the above, the Writ Petition is allowed and the impugned order is quashed and the 2nd respondent is directed to issue Birth Certificate to the petitioner's son, who was born on 01.11.2012 and correct the same as "R.Amanullah" as per publication made in the Government Gazette dated 09.10.2013, within a period of three weeks from the date of receipt of a copy of this order. No costs."

6. In my view the aforesaid decision is squarely applicable.

7. The petitioner's original name was R.N.V.Ragavan. He was born on 24.10.1995. The birth certificate issued by the respondents says so. Later, the petitioner got his name changed as V.Balaji. It was also duly published in the Tamilnadu Government Gazette, dated 30.03.2005. A copy of the same has also been enclosed in the typed set of papers. The petitioner now wants the corresponding correction to be made in the birth certificate."

7. In view of the above, the present case is also squarely covered by the above order and the impugned rejection order dated 09.10.2020 issued by the first respondent is hereby quashed and there shall be a direction to the first respondent to incorporate the name of the petitioner as 'Pandiselvi' in the birth certificate and issue a fresh birth certificate to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order.

8. This Writ Petition is allowed with the above direction. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Commissioner
Periyakulam Municipality
Periyakulam.

2.The Registrar
Birth & Death
Periyakulam Municipal Office,
Periyakulam.

W.P. (MD) No.161 of 2021
21.06.2021

—
KK(30.06.2021) 5P 3C