

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15345 of 2019

=====

Aditya Raj, Son of Sri Rakesh Kumar Raj, Resident of J- 109, Peoples Co-operative Colony, Kankarbag, District- Patna- 800020.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of External Affairs, Govt. of India, New Delhi.
2. The Secretary, External Affairs Department Govt. of India, New Delhi.
3. The Passport Officer, Regional Passport Office, Patna, D- Block, Maurya Lox Complex, Patna- 800001.
4. The Municipal Commissioner, Patna Municipal Corporation.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Kumar, Advocate
	:	Mrs. Arti Kumar, Advocate
For the Respondent/PMC:	:	Mr.Javed Gaffar Khan, Advocate
For the U.O.I.	:	Mr. Ram Anurag Singh (C.G.C.)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 22-06-2022

1. The present writ petition has been filed for issuance of a direction upon the respondents to renew and issue a fresh passport to the petitioner after making correction in his date of birth.

2. The short facts of the case are that the date of birth mentioned in the passport of the petitioner is 22.02.1997 and the passport was issued by the respondent- authorities on 31.07.2006 on the basis of the date of birth mentioned as 22.02.1997 in the application filed before the passport authorities. In fact, the basis of the said date of birth mentioned



as 22.02.1997 is a birth certificate of the petitioner bearing no. 7462 dated 31.10.1998, issued by the Patna Municipal Corporation, Patna. It appears that subsequently, the parents of the petitioner had applied before the Passport Office, Patna for renewal/ re-issue of the passport of the petitioner, however no claim was made for changing the date of birth leading to issuance of a new passport on 16.08.2011. It appears that subsequently, another application was filed by the petitioner for changing the date of birth from 22.02.1997 to 22.12.1997 on the basis of a birth certificate bearing no. 11758 dated 06.02.2016, issued by the Patna Municipal Corporation, Patna showing the date of birth of the petitioner to be 22.12.1997, whereafter the respondent- authorities had referred both the birth certificates of the petitioner to the Issuing Authority for confirming the genuineness of the same.

3. The learned counsel for the petitioner has submitted that a bare perusal of the provisions contained in para 4(iii) of the Office Memorandum dated 26.11.2015, issued by the Ministry of External Affairs would show that normally in cases, where the applicant approaches the Passport Issuing Authority for change/ correction with regard to date of birth in the passport after a period of 05 years from the date of issuance



of passport with alleged wrong date of birth, no such request is required to be entertained/ accepted by the Passport Issuing Authority and such application has to be rejected out-rightly, however there is an exception to the said provision, inasmuch as such cases are required to be considered where an applicant, who was minor at the time when passport with the alleged wrong date of birth was issued to him, approaches the Passport Issuing Authority, upon attaining the age of majority with a request to change the date of birth in the passport. In such cases, the Passport Issuing Authority shall consider the request of the applicant for change of date of birth and in case, he is satisfied with the claim, necessary change of date of birth may be made in the passport. It is thus submitted that since the passport was issued to the petitioner on 31.07.2006 when the petitioner was a minor, upon attaining majority, he has approached the Passport Issuing Authority by filing an application in the year 2016 for change of his date of birth and the basis for the same is his birth certificate dated 06.02.2016, issued by the respondent- Patna Municipal Corporation, Patna, hence it was/ is incumbent upon the Passport Issuing Authority to consider the case of the petitioner for change in his date of birth.



4. *Per contra*, the learned counsel for the respondent-Passport Issuing Authority has submitted that the case of the petitioner does not appear to be genuine, inasmuch as firstly, a passport was issued on 31.07.2006 on the basis of a birth certificate dated 31.10.1998, issued by the Patna Municipal Corporation, Patna, where the date of birth of the petitioner has been mentioned as 22.02.1997 and then the parents of the petitioner had applied for renewal/ re-issue of the passport in the year 2011, at which time no such request for change in the date of birth was mentioned, whereupon the respondent-Passport Issuing Authority had re-issued a passport dated 16.08.2011 mentioning the date of birth of the petitioner to be 22.02.1997, whereafter the petitioner had approached the Passport Issuing Authority in the year 2016 for change of his date of birth from 22.02.1997 to 22.12.1997, affixing a copy of a new birth certificate dated 06.02.2016, issued by the Patna Municipal Corporation, Patna, mentioning therein the date of birth of the petitioner contrary to the earlier certificate issued by the Patna Municipal Corporation, Patna on 31.10.1998, leading to the respondent- authorities sending both the birth certificates to the Patna Municipal Corporation, Patna to verify as to which is the genuine birth certificate. It is also submitted



by referring to the counter affidavit filed on behalf of respondent no. 4 i.e. the Registrar, Birth and Death, Patna Municipal Corporation, Patna that the respondent no. 4 has made a categorical statement stating that the petitioner has illegally obtained the second birth certificate from the Patna Municipal Corporation, Patna bearing registration no. 11758 dated 06.02.2016 without having applied before the Registrar, Patna Municipal Corporation, Patna for cancellation of first certificate which was issued on 31.10.1998 and upon having detected the said illegal act and malafide intention of the petitioner, the second birth certificate has been cancelled as per ***Section 15 of the Registration of Birth and Death Act, 1969***, inasmuch as there is no provision in the Act to obtain a second birth certificate and the only relevant document would be the birth certificate, issued immediately upon the birth of the petitioner, hence the certificate dated 31.10.1998, issued by the Patna Municipal Corporation, Patna, pursuant to the birth of the petitioner on 22.02.1997 is valid for all purposes.

5. The learned counsel for the Patna Municipal Corporation, Patna has supported the stand taken by the respondent- passport issuing authority and has further submitted that there is no provision in the ***Registration of Birth***



and Death Act, 1969 for increasing or decreasing the age of any child.

6. I have heard the learned counsel for the parties and gone through the materials on record, from which it is apparent that a fraud has been committed by the petitioner, as he has obtained a second birth certificate illegally from the Patna Municipal Corporation, Patna despite being in possession of a birth certificate issued by the Patna Municipal Corporation, Patna dated 31.10.1998, immediately upon his birth, showing his date of birth to be 22.02.1997, which was detected only after the Passport Issuing Authority had sent both the birth certificates to the Patna Municipal Corporation, Patna for verification, whereupon appropriate steps have been taken by the Patna Municipal Corporation, Patna and vide order dated 10.08.2019, the second birth certificate dated 06.02.2016, issued illegally to the petitioner, has been cancelled. In such view of the matter, the petitioner has got no case for change of his date of birth and now, it is too late in the day to contend that the date of birth of the petitioner is 22.12.1997 and not 22.02.1997, inasmuch as all the documents and the facts mentioned hereinabove in the preceeding paragraphs show that the date of birth of the petitioner is 22.02.1997, which has



validly been recorded in the passport upon proper representation made by the parents of the petitioner as also on the basis of valid and legal birth certificate dated 31.10.1998, issued by the Patna Municipal Corporation, Patna, certifying the date of birth of the petitioner as 22.02.1997. Consequently, I do not find any merit in the present petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

rinkee/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.07.2022
Transmission Date	NA

