IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.23836 of 2021

Shwetha Shuresh ... Petitioner

vs.

The Tahsildar,
Velachery,
Chennai – 42. ...Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus calling for the records in respect of the impugned rejection order in respect of the petitioner's online application No.TN.3202106194239 dated 05.07.2021 issued by the respondent and to quash the same and consequently direct the respondent to issue Nativity Certificate to the petitioner.

For Petitioner : Mr.S.Vijayakumar

For Respondent : Mr.K.H.Ravikumar
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 05.07.2021 passed by the respondent rejecting the petitioner's application seeking for nativity certificate in her name on the ground that the applicant's place of birth is Bahrain.

2. The case of the petitioner is that even though she was born in Bahrain when her parents were employed there, her permanent place of residence is only at Chennai, Tamil Nadu. According to the petitioner, her parents were also permanent residents of Chennai and therefore, as per G.O.Ms.No.238 dated 27.11.1990, the petitioner is entitled to obtain a nativity certificate in her favour.

3. A counter affidavit has been filed by the respondent reiterating the reasons for rejection of the petitioner's application seeking for nativity certificate. According to them, since the birth place of the petitioner was Bahrain and proof for details of the petitioner's education was also not produced, the respondent has rightly rejected the petitioner's application seeking for nativity certificate.

4. Heard Mr.S.Vijayakumar, learned counsel for the petitioner and Mr.K.H.Ravikumar, learned Government Advocate appearing for the respondent.

5. The learned counsel for the petitioner drew the attention of this Court to G.O.Ms.No.2388 dated 27.11.1990 and would submit that even though the petitioner was born in Bahrain, she is a permanent resident of Chennai. Further he would submit that her parents are also permanently residing in Chennai only. According to him, only for the purpose of employment, the petitioner's parents were in Bahrain, when the petitioner was born and therefore according to him, as per G.O.Ms.No.2388 dated 27.11.1990, the petitioner is entitled for nativity certificate in her favour.

6. Per contra, learned Government Advocate appearing for the respondent would reiterate the contents of the counter affidavit filed by the respondent and would submit that the petitioner having been born in Bahrain, is not entitled for nativity certificate and further she has also not produced the proof regarding her educational details and that is the reason for rejection of her application seeking for nativity certificate.

Discussion:

7. It is pertinent to note that the Government passed G.O.Ms.No.2388, Revenue Department, dated 27.11.1990, framing the following guidelines for issuance of Nativity Certificates :

> "i) The parents/guardians of the applicant/students or the applicants themselves should have permanently resided continuously for period of five years in Tami Nadu.
>
> ii) Permanently residing for a period of five years should be supported by documentary evidence.
>
> iii) The family ration card, Electoral Roll, Census list, if taken recently, documents like sale deed, tax receipt etc. relating to the property owned by either of the parents or by the applicant may be verified.
>
> iv) The Transfer Certificate issued by the School authorities where the applicant had studied last may be verified to know whether he was in the state for five years.
>
> v) Enquiry in the Village/place of residence of the neighbours/Village Administrative Officers regarding continuous residing.
>
> vi) To ensure that wrong or incorrect address had not been furnished to obtain the certificates.

> vii) The birth place of the parent, place of residence of the parent/father, permanent asset, mother tongue, place of education, place of marriage of the applicant/parents, the period of stay in and outside Tamilnadu can also be considered before issuing certificate."

8. As seen from the aforementioned guidelines, either the applicant or her parents/guardians should have permanently resided continuously for a period of five years in Tamil Nadu. In the case on hand, the petitioner is an Indian Citizen, eventhough, she was born in Bahrain. Further in all Gulf Countries, including Bahrain, the question of getting citizenship of that nationality by birth is not possible. The petitioner was born in Bahrain when her parents were employed there. Her parents are also Indian Citizens and they are permanently residing in Chennai, Tamilnadu. The petitioner has also produced family card issued by Tamil Nadu Civil Supplies Corporation in respect of her grand parents and also Aadhar card of the petitioner's father and petitioner's grand-parents issued by Government of India.

9. The said documents clearly establish that the petitioner's parents and her grand-parents are permanent residents of Tamil Nadu. There is also no possibility for the petitioner to obtain a nativity certificate in Bahrain as

she is not a citizen of that country. If the contention of the respondent that the petitioner is not entitled for a nativity certificate on the ground that she was born in Bahrain is accepted, the petitioner can neither approach Bahrain authorities nor can she approach the Indian authorities for nativity certificate which will place her as a person having no domicile which will deprive the petitioner's fundamental right to have a place of domicile. Therefore, only place where she can seek for nativity certificate is India, the country to which she belongs. Therefore, the contention of the respondent in their counter affidavit is irrational and illogical. G.O.Ms.No.2388 dated 27.11.1990 issued by the Revenue Department also makes it clear that if the petitioner's parents have permanently resided continuously for a period of five years in Tamil Nadu, the petitioner is entitled for nativity certificate.

10. By total non application of mind to the true meaning of G.O.Ms.No.2388 dated 27.11.1990 issued by Revenue Department, the impugned order has been passed rejecting the petitioner's application.

11. For the foregoing reasons, the impugned order dated 05.07.2021 rejecting the petitioner's application for nativity certificate is arbitrary and

not in accordance with law. Therefore, the impugned order dated 05.07.2021 passed by the respondent has to be necessarily quashed and the writ petition will have to be allowed.

12. Accordingly, the impugned order dated 05.07.2021 is hereby quashed and the respondent is directed to issue Nativity Certificate within a period of two weeks from the date of receipt of a copy of this Order. This writ petition is allowed. No costs.

15.07.2022

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Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking orders

ABDUL QUDDHOSE, J.
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To

The Tahsildar,
Velachery,
Chennai – 42.

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