



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2022

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.3855 of 2022

Shankar

... Petitioner

/Vs./

The Commissioner,
Sankarankovil Municipality,
Sankarankovil,
Tenkasi District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records, pertaining to the impugned orders, passed by this respondent vide Na.Ka.No.2419/2021/H1, dated 20.10.2021, and thereby quash the same as void and to carry out the new name as published in the Tamil Nadu Government Gazette as "Shankar" instead of the existing name "Sankaranarayanan" in the records maintained by this respondent under Tamil Nadu Birth and Death Registration Rules, within a time frame fixed by this Court.

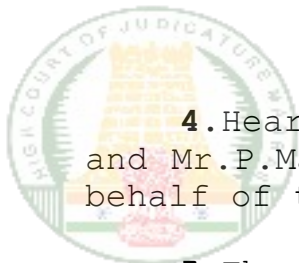
For Petitioner	: Mr.F.X.Eugene
For Respondent	: Mr.P.Mahendran
	Standing Counsel

ORDER

This writ petition has been filed for challenging the order dated 20.10.2021 passed by the respondent rejecting the petitioner's request for change of his name as "Shankar" instead of "Sankaranarayanan" in the birth records.

2. According to the petitioner, he is presently living in United States of America and in the year 2020, he has changed his name as "Shankar" instead of "Sankaranarayanan". It is his case that his change of name has also been notified in the Tamil Nadu Government Gazette dated 28.10.2020.

3. However, according to him, the Tamil Nadu Government Gazette notification is not acceptable in United States of America, as the authorities there are insisting for an order from the respondent Municipality, under which the petitioner's change of name has been recorded. The petitioner has submitted an application to the respondent Municipality, under whose jurisdiction he was born, seeking for change of his name as "Shankar" instead of "Sankaranarayanan" in their records. But, under the impugned order, the same has been rejected on the ground that there is no provision under the Tamil Nadu Births and Deaths Registration Rules, 2000, for changing the petitioner's name. Aggrieved by the same, this writ petition has been filed.



4. Heard Mr.F.X.Eugene, learned Counsel for the writ petitioner and Mr.P.Mahendran, learned Standing Counsel, who accepts notice on behalf of the respondent.

5. The learned counsel appearing for the petitioner drew the attention of this Court to the Judgment of the Division Bench of this Court in the case of **The Commissioner, the Pallavaram Municipality vs. S.K.Syed Rafiullah and Others** reported in **2016 (4) CTC 868**. Relying upon the said judgment, he would submit that the Division Bench in the aforesaid Judgment, involving a similar case, directed the Municipality to correct the change of name of the party in their records, though the very same stand taken in the impugned order was also taken in that case also.

6. In particular, the learned counsel appearing for the petitioner drew the attention of this Court to the paragraph Nos.2 and 3 of the aforesaid Judgment of the Division Bench referred to supra, which read as follows:

"2. Under Section 15 of the abovesaid Act, what is contemplated is that if it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under the Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alternation of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation. The above section provides the procedure to be followed by the Registrar on such application being made. He is vested with the power to correct the error or cancel the entry by suitable entry in the margin, without any alternation of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation. It does not necessarily mean that the entry cannot be made by way of alteration. What is contemplated is that in the place of entries being made, on satisfaction of the Registrar, he can only make a marginal entry and not alter the original entry.

3. Anyhow, it is not even a question of change or alteration of date of birth or death. It is only the change of name of the minor child based on a publication in the Government Gazette.



Therefore, the Officer concerned is duty bound to change the name and issue the Birth Certificate afresh and it will not be in violation of section 15 of the abovesaid Act. As such, we do not find any merit in the appeal filed by the Commissioner of Pallavaram Municipality and the same is dismissed. Accordingly, the writ appeal is dismissed. The appellant-Commissioner of Pallavaram Municipality is to do the needful as directed by the learned Single Judge within a period of fifteen days from today and issue the Birth Certificate afresh after changing the name and retaining the same date of birth as mentioned in the original entry. No costs. The connected miscellaneous petition is also dismissed."

7. Therefore, by total non application of mind to the settled law as laid down in the aforesaid decision of the Division Bench of this Court, the impugned order has been passed rejecting the petitioner's application seeking for change of the petitioner's name from "Shankaranarayanan" to "Shankar" in the birth records of the respondent. Therefore, the impugned order has to be necessarily quashed and a direction is issued to the respondent to carry out the change of the petitioner's name from "Shankaranarayanan" to "Shankar" in the birth records of the petitioner and re-issue a fresh birth certificate in the name of the petitioner by disclosing the name of the petitioner as "Shankar" in place of "Sankaranarayanan".

8. Accordingly, the impugned order dated 20.10.2021 is hereby quashed and the writ petition is allowed by directing the respondent to carry out the new name of the petitioner as "Shankar" instead of "Sankaranarayanan" in the birth certificate and thereafter issue a fresh birth certificate in the name of "Shankar" to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sm

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

The Commissioner,
Sankarankovil Municipality,
Sankarankovil,
Tenkasi District.

+1 CC to M/s.F.X.EUGENE, Advocate (SR-9580[F] dated 02/03/2022)

+2 CC to M/s.F.X.EUGENE, Advocate (SR-10024[F] dated 04/03/2022)

order made in
W.P. [MD]No.3855 of 2022

Dated:
02.03.2022

SS/22.03.2022 : 4P/5C