



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.3758 of 2022

R.Rajaram

... Petitioner

Vs.

The Regional Passport Officer,
The Regional Passport Office,
Kochadai Main Road,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent herein to renew the passport of the petitioner with his date of birth as 11.08.1971 on the basis of his application vide receipt No.MDUF 21378552395 dated 08.12.2021.

For Petitioner : Mr.VR.Shanmuganathan

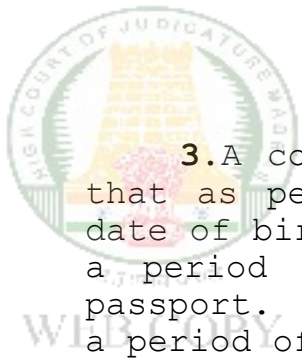
For Respondents : Mr.K.Prabhu

Central Government Standing Counsel

O R D E R

This writ petition has been filed for a Mandamus seeking for a direction to the respondent to renew the petitioner's passport disclosing his date of birth as 11.08.1971 instead of 15.02.1961, based on his application dated 08.12.2021.

2.According to the petitioner, his earlier passport discloses his date of birth as 15.02.1961, which is an incorrect date of birth. It is also his case that ever since 1986, he has been living abroad and has been renewing the passport at the Indian Embassy in Saudi Arabia. He has renewed the passport five times and the validity of the last renewal expired on 21.06.2021. On return to India, he applied for renewal with the respondent along with the records. According to the petitioner, his correct date of birth is only 11.08.1971 and his birth certificate also discloses the same. He submitted his renewal application with the respondent on 08.12.2021 along with the relevant records including his birth certificate which discloses the date of birth as 11.08.1971, though the date of birth mentioned in the earlier passport discloses his date of birth as 15.02.1961. Since the said application dated 08.12.2021 submitted by the petitioner was not processed by the respondent, on the ground that the date of birth differs from what was mentioned in the earlier passport, the petitioner has filed this writ petition.



3.A counter affidavit has been filed by the respondent stating that as per office memorandum dated 26.11.2015, correction to the date of birth in the passport can be made if it is sought for within a period of five [5] years from the date of issuance of the passport. Since the petitioner has approached the respondent after a period of five years, his application has to be rejected.

4.Heard Mr.VR.Shanmuganathan, learned Counsel appearing for the writ petitioner and Mr.K.Prabhu, learned Central Government Standing Counsel, who accepts notice on behalf of the respondent.

5.The contention of the petitioner is that only due to the fact that he was permanently residing abroad in Saudi Arabia and was renewing the passport in Indian High Commission at Saudi Arabia periodically, there was no necessity for him to produce his birth records giving the correct date of birth. According to him, only after he returned to India, when he had to submit his renewal application with the respondent seeking for renewal of his passport, he had to submit the records including his birth certificate. The birth certificate of the petitioner discloses his date of birth as 11.08.1971, which according to the petitioner is his correct date of birth. However, under his previous passport, his date of birth has been wrongly disclosed as 15.02.1961.

6.It is also his contention that when he first left India, based on the previous passport issued in his name, he was a minor and therefore, the conditions relied upon by the respondent as per their office memorandum dated 26.11.2015 will not apply as there is an exception provided under the said circular itself, in case the applicant is a minor.

7.Admittedly, the application dated 08.12.2021 submitted by the petitioner seeking for renewal of his passport with the respondent has not been considered till date and no final orders have been passed. In such circumstances, this Court is of the considered view that no prejudice would be caused to the respondent if the petitioner's application dated 08.12.2021 seeking for renewal of his passport disclosing his date of birth as 11.08.1971 instead of 15.02.1961 is considered on merits and in accordance with law after giving due consideration to the records submitted by the petitioner including his birth certificate.

8.For the foregoing reasons, this Court directs the respondent to consider the petitioner's application dated 08.12.2021 seeking for renewal of his passport disclosing his date of birth as 11.08.1971 and pass final orders on merits and in accordance with law after affording a fair hearing to the petitioner including granting him the right of personal hearing within a period of six [6] weeks from the date of receipt of a copy of this order. The



petitioner is permitted to produce all relevant documents / records including authorities rendered by the decisions of the Superior Courts to the respondents in support of his contentions.

9. With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

To

The Regional Passport Officer,
The Regional Passport Office,
Kochadai Main Road,
Madurai.

+1 CC to M/s.K. PRABHU, Advocate (SR-19891[F] dated 20/04/2022)

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