



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2022

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.9400 of 2022

and

W.M.P. (MD)Nos.6736 & 6738 of 2022

K.Ramvaibhav
Rep by his Power Agent
S.S.Kumaran

... Petitioner

Vs.

1.The District Revenue Officer,
Theni District.

2.The Commissioner,
Bodinayakanur Municipality,
Bodinayakanur,
Theni District.

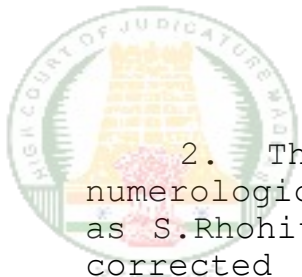
... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Government Orders issued by the first respondent the Commissioner in Na.Ka.No.0667/2022/H2, dated 30.03.2022 denied to change the name of the petitioner's son and quash the same and further direct the first respondent Commissioner to change the name of the petitioner's son as K.Ramvaibah instead of S.Rhohith as per Official Gazette Notification dated 17.10.2015.

For Petitioner	: Mr.K.Prabhu
For R1	: Mr.M.Prakash
	Additional Government Pleader
For R2	: Mr.K.Hema Karthikeyan

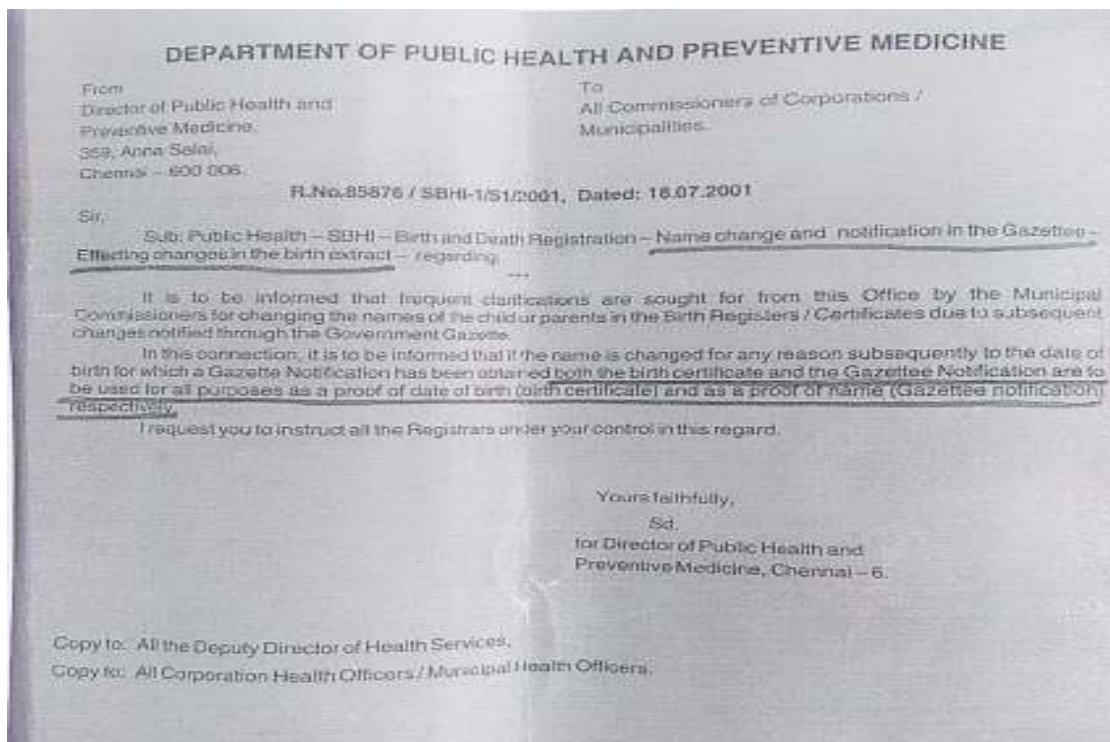
O R D E R

Heard the learned counsel appearing for the petitioner, the learned standing counsel appearing for the second respondent and the learned Additional Government Pleader appearing for the first respondent.



2. The petitioner's original name was S.Rohith. For numerological reasons, he altered his spelling and he became known as S.Rhohith. He applied to the second respondent and got his name corrected in the birth certificate. Thereafter, he once again changed his name as K.Ramvaibhav. He moved the second respondent for issuance of a fresh birth certificate. The second respondent took the stand that second alteration cannot be sought for. He also pointed out that based on the gazette notification, correction cannot be made. Challenging the stand of the second respondent, this Writ Petition came to be filed.

3. The learned standing counsel for the second respondent Municipality had drew my attention to the letter issued by the Director of Public Health and Preventive Medicine, Chennai, dated 18.07.2001. The said letter reads as follows:-



4. The very same authority who is the Chief Registrar under Tamil Nadu Registration of Births and Deaths Act issued one more communication bearing R.No.96983/SBHI.I/SI/2091, dated 13.08.2001 which reads as follows:-



DEPARTMENT OF PUBLIC HEALTH AND PREVENTIVE MEDICINE

From
Dr. P. Krishnamurthy,
Director of Public Health and
Preventive Medicine,
359, Anna Salai,
Chennai - 600 006.

To
All Commissioners of Corporation /
Municipalities
All Districts Revenue Officers
Additional Collector of Kanyakumari District.

R No.96983/SBHI/VS/2001, Dated: 13.08.2001

Sir,

Sub: Public Health - SBHI - Birth and Death Registration - Entering of name of child in the birth register - Clarification issued - regarding.

Ref: Lr No.1/4/95 - VS (CRS), dated 27.06.2001 of Registrar General, India, New Delhi.

Details of name of child for birth registered is one of the important items and hence has to be reported and registered carefully. Frequent clarification are sought for in this connection especially for inclusion of surname, etc. in the birth register by the Executive Authorities of registration system.

In this connection, I request you to follow the points given below in respect of name of the child in the birth register and certificate while following Section - 15 of the Registration of Birth and Death Act 1969.

1. Name should be reported only by the parents or by Guardian (if parents are not alive), after obtaining a declaration from them.
2. The declaration should be available in the birth register for reference permanently and in case of delayed reporting after one year and within 15 years, details of orders of the competent authority and payment of late fee, etc., should be entered in the remarks column.
3. Name once entered should not be changed totally under normal circumstances but, spelling corrections, etc, may be allowed.
4. Adding surname or caste name or any other identification details along with name or deleting the same may be made without changing the main name already entered, based on declarations by the parents / guardians.
5. Ascertaining the bonafides of the person making the request for entering the name initially or at the time of modifications as per item 4 above is necessary before effecting changes. The satisfaction of the registrar in ascertaining the facts of case is more important and final.
6. Any addition or deletion should be made once and same cannot be allowed any number of times.

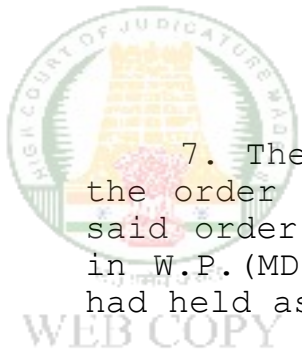
I request you to instruct the Registrars under your control to follow the above points while registering the name of the child and making corrections in the birth register.

Yours faithfully,

Sd/- Dr. P. Krishnamurthy,
Director of Public Health and
Preventive Medicine, Chennai-6.

5. The learned standing counsel relied on the 6th direction which states that any addition or deletion can be made once and the same cannot be allowed any number of times. No doubt, the impugned communication issued by the first respondent is in consonance with the aforesaid circulars. But these are only in the nature of executive instructions. The fact remains that as on date, S.Rhohit is known as K.Ramvaibhav. There is no restriction on a person changing his name any number of times. He has to do it by publishing the name change in the gazette.

6. In this case, the gazette notification has also been enclosed in the typed set of papers. Therefore, the instructions issued by the Director of Public Health and Preventive Medicine, Chennai that any addition or deletion can be made only once need not be viewed as insurmountable impediment. At present, it is only a guideline without any statutory force.



7. The learned counsel appearing for the petitioner relies on the order dated 10.09.2020 made in W.P.(MD)No.6626 of 2019. In the said order, I had followed the earlier order dated 07.01.2016 made in W.P.(MD)No.30766 of 2015. 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 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.

8. The learned standing counsel fairly brings it to my notice that this order was put to challenge before the Hon'ble Division Bench and that the same was dismissed. The order dismissing the writ appeal is reported in **2016 3-L.W.863 (The Commissioner Vs. S.K.Syed Rafiullah)**.

9. Respectfully following the aforesaid order, I hold that the petitioner has made out a case for intervention. In this view of the matter, the order impugned in the writ petition is quashed. The Writ Petition is allowed. The first respondent is directed to issue



a revised birth certificate as sought for by the writ petitioner.
No costs. Consequently, connected miscellaneous petitions are
closed.

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Sd/-

Assistant Registrar (CS-II)

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/07/2022

Sub Assistant Registrar(CS)

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To

1.The District Revenue Officer,
Theni District.

2.The Commissioner,
Bodinayakanur Municipality,
Bodinayakanur,
Theni District.

+1 CC to M/s.K. PRABHU, Advocate (SR-26872[F]
dated 20/06/2022)

+1 CC to M/s.SPL.GP (SR-27143[F] dated 21/06/2022)

W.P.(MD)No.9400 of 2022
17.06.2022

KS(CO)

GC(05.07.2022) 6P 5C