



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD).No.12442 of 2021

M.Anthoniraj

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai - 625 002.

2.Muthanmai Nagarnala Aluvalar,
Arignar Anna Maaligai,
Madurai Corporation,
Madurai - 625 002.

... Respondents

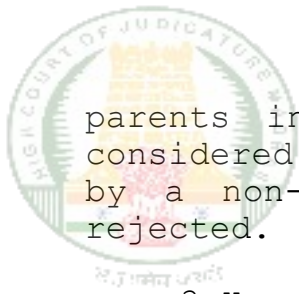
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, by calling for the records of the second respondent in impugned order dated 07.12.2020 in Letter No.H5/15152/2020 and to set aside the same and consequentially direct the respondents to include the name of the petitioner's adoptive daughter as "A.Punitha Anthony" and adoptive parents name "M.Anthoniraj and A.Mikkelammal" in the birth register and to issue fresh birth certificate to the petitioner's daughter within the stipulated time that may be fixed by this Court.

For Petitioner	: Mr.R.Rajamohan
For Respondents	: Mrs.S.Devasena, Standing Counsel.

ORDER

This Writ Petition has been filed challenging the order dated 07.12.2020 passed by the second respondent rejecting the petitioner's application seeking for inclusion of the names of adoptive parents of A.Punitha Anthony in the birth certificate of A.Punitha Anthony, on the ground that since A.Punitha Anthony was born in Thiruvallur jurisdiction, the petitioner has to approach only the concerned Tahsildar at Thiruvallur and cannot apply before the first respondent.

2.The petitioner claims to be the adoptive father of A.Punitha Anthony. According to him, without affording any opportunity of hearing, the impugned order has been passed. It is also his contention that the circular issued by the Government of India, Ministry of Home Affairs dated 12.03.2012, which permits the petitioner to approach the authorities concerned where the adoption was registered to apply for inclusion of the names of the adoptive



parents in the birth certificate of A.Punitha Anthony, was not considered under the impugned order. According to the petitioner, by a non-speaking order, the petitioner's application has been rejected.

3.Heard Mr.R.Rajamohan, learned counsel for the petitioner and Mrs.S.Devasena, learned Standing Counsel, who accepts notice on behalf of the respondents.

4.As seen from the impugned order, it is a non-speaking order. No opportunity of hearing has been granted to the petitioner before rejecting the petitioner's application seeking for inclusion of the names of the adoptive parents in the birth certificate of A.Punitha Anthony. The only reason for rejection given by the second respondent under the impugned order is that the petitioner will have to approach the Tahsildar at Thiruvallur, where A.Punitha Anthony was born, for including the names of the adoptive parents in the birth certificate of A.Punitha Anthony. The second respondent has also not considered the circular referred to supra, which was relied upon by the learned counsel for the petitioner, in the impugned order.

5.Being a non-speaking order and the second respondent having not afforded any opportunity of hearing to the petitioner, the impugned order has to be necessarily quashed for the violation of principles of natural justice and the matter has to be remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing.

6.For the foregoing reasons, the impugned order dated 07.12.2020 passed by the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing. The second respondent shall pass final orders within a period of eight (8) weeks from the date of receipt of a copy of this order, after giving due consideration to the circular dated 12.03.2012 issued by the Government of India, Ministry of Home Affairs.

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

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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

- 1.The Commissioner,
Madurai Corporation,
Madurai - 625 002.
- 2.Muthanmai Nagarnala Aluvalar,
Arignar Anna Maaligai,
Madurai Corporation,
Madurai - 625 002.

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-12098[F] dated 15/03/2022)

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RS (21.03.2022) 3P-4C