



W.P.(MD)No.23970 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.11.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.23970 of 2022

A.Sirajudeen

... Petitioner

Vs.

The Authorized Officer,
Passport Office,
West Boulevard Road,
Water Tank Building,
Tiruchirappalli-620 008.

... Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent to accept the request of the petitioner to effect correct date of birth 15.12.1974 in his passport No.Z5941503 as per his birth, SSLC, Transfer Certificates, Gazette Notification, Aadhar Card, PAN Card, Driving License based on the petitioner's representation dated 13.04.2022 within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.V.Malaiyendran

ORDER

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus, directing the respondent to accept the request of the petitioner



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to effect correction in the date of birth in his passport No.Z5941503 as per his Birth, SSLC, Transfer Certificates, Gazette Notification, Aadhar Card, PAN Card, Driving License based on the petitioner's representation, dated 13.04.2022 within the period stipulated by this Court.

2.Heard Mr.A.Haja Mohideen, learned counsel for the petitioner and Mr.V.Malaiyendran, learned counsel for the respondents.

3.The grievance of the petitioner is that in the passport issued to the petitioner, the date of the birth of the petitioner is wrongly mentioned. Hence, the petitioner approached the respondent seeking correction in the date of birth. Since no action has been taken on the same, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the petitioner has completed SSLC. He obtained passport in Passport No.Z5941503, in which the date of birth of the petitioner is mentioned as 15.04.1969. The spelling of his name is also wrongly mentioned. He submitted that at the time seeking passport, the father of the petitioner had given their ration card as proof and hence, his date of birth and spelling of his name was mentioned in the passport as mentioned in the ration card. But in the SSLC & Transfer



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certificates, Adhar, Pan and other documents, his date of birth and spelling of his name is mentioned as 15.12.1974 and Serajudeen, respectively.

5.The petitioner to correct his name has issued a gazette notification and corrected the spelling of his name. To correct the date of birth in his passport, the petitioner approached the respondent on 13.04.2022. The respondent sent a reply on 13.04.2022 stating that the procedure for change of date of birth is not a routine matter and there are no specified documents and if necessary documents are produced, the petitioner's case will be considered based on the merits of the case. Hence, the petitioner got an appointment through online and appeared before the respondent and submitted all his documents. But the respondent without considering the same, made the petitioner to run pillar to post. Hence, the petitioner has filed the present writ petition.

6.The learned counsel for the respondent made objections to the prayer of the petitioner by filing his counter. The learned counsel for respondent submitted that the petitioner has obtained passport initially in Passport No.TRYW05917692 by producing relevant documents. By efflux of time, the said documents were destroyed by the passport office and hence, the same could not be produced before this Court. Thereafter, for the second time, the petitioner renewed passport in the year 1993, thirdly in the year 2003. The



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date of birth of the petitioner is mentioned in the passport only as 15.04.1969, since from the date of issuance of the passport. Now, the petitioner seeks correction in his date of birth for the reasons best known to him.

7.The learned counsel for the respondent further submitted that the petitioner has approached this Court after 29 years from the date of issuance of passport seeking correction in his date of birth. He made reliance to Para No.8 of the counter affidavit, which reads as under:

“It is submitted that based on the above judgment of Hon'ble High Court of Kerala, the ministry of External Affairs, New Delhi has issued a standing instruction to the Passport Issuing Authority (PIA) that under no circumstances the Passport Issuing Authority will relegate the applicant to obtain the declaratory court order to carry out changes with regard to the date of birth in the passport. Similarly, vide MEA O.M.No.VI/401/2/5/2001, dated 26.11.2015, guidelines with regard to change/correction of date/place of birth entries in the passport of an applicant already held by him/her can approach for such change correction within the stipulated span of 5 years from the date of issue of passport. The cases where the applicant comes to PIA (Passport Issuing Authority) for change/correction with regard to date/place of birth in passport after a period of five years from the date of issue of passport with alleged wrong date/place of birth, no such request shall be



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entertained /accepted by the passport issuing authority and be rejected out rightly.”

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8.Hence, the request of the petitioner is barred by Article 113 of the Limitation Act, 1963 and also in view of the above guidelines issued by the Ministry of External Affairs as he has not approached the respondent or this Court seeking correction in his date of birth within the period of five years from the date of issuance of the passport. To substantiate his submission, he the learned counsel for the respondent has relied upon the judgment of this Court in the case of **Abdul Rajak Vs., The Passport Officer, Trichy** [W.P.(MD)No.7693 of 2014], wherein it has been stated that the claim made by the petitioner is an afterthought, and the same is upheld by this Court in the case of **M.Manikandan vs. The Passport Officer, Trichy** [W.P.No.8787 of 2012]. Hence, he prayed for dismissal of this writ petition.

9.The petitioner has filed a reply to the counter filed by the respondent stating that at the time of applying passport through his father, the family card was submitted as proof of age, since his original educational certificates were misplaced in his native village. Now, the petitioner's relative, while cleaning the house of the petitioner in his native, got all the original certificates of the petitioner. Hence, the delay was occurred in seeking correction to his date of birth entered in his passport.

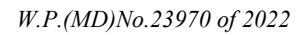


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WEB COPY 10. This Court has carefully weighed the submissions made on either side and also perused the materials.

11. It is seen from the averments made in the counter affidavit that the petitioner has obtained passport thrice with same date of birth as 15.04.1969. He went to abroad for his job. He may notice his incorrect date of birth even while seeking visa and other procedure. If his date of birth in the passport is different from his school certificates, Aadhar and other documents, it is not possible for the petitioner to obtain visa. But the petitioner is working in abroad for so many years by using the passport, to which the petitioner now seeks correction.

12. It is pertinent to note that the petitioner had changed his name in the passport for two times. It is not known that how the petitioner did not notice his incorrect date of birth, even while making corrections to his name. Further, the passport was obtained by his father, when the petitioner had attained his majority. He could have well checked the entries made in the passport. If the petitioner was a minor at the time of issuing passport, then there is a possibility of considering the request made by the petitioner. Further, he has signed in his declaration form, as if the details given by him are correct to the



13. In the judgment relied upon by the learned counsel for the respondent in *in W.P.No.9073 of 2015 [Jeyakumar vs. Union of India and others]*, the High Court of Kerala has held that the details entered in the passport cannot be lightly interfered with that too after many years without any sustainable cause and without any explanation as to why initially such wrong declaration was made and why now a change is sought that too based on the documents which was available with the applicant when the original declaration was made.

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15. For all the above reasons, this Court is of the view that the claim made by the petitioner is perverse and the same could not be entertained. Accordingly, this Writ Petition is dismissed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

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V.BHAVANI SUBBAROYAN, J.

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