

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20288 of 2021

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Mohammad Arif Son of Md. Khurshid Alam Resident of Khagaul Road,
Najam High School, Minhaj Nagar, Phulwarisharif, Police Station -
Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of External Affairs,
Government of India, New Delhi.
2. The Regional Passport Officer, Patna, Ministry of External Affairs,
Government of India.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Pravesh Nath Tiwari, Advocate
For the Respondent/s : Dr. Krishna Nandan Singh (ASG)
Mr. Alok Kumar Jha, CGC

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 18-12-2023 Heard the learned counsel for the parties.

2. This application has been filed on behalf of the
petitioner for the following reliefs:-

*(I) For issuance of appropriate writ/ writs, in
the nature of writ of mandamus directing the respondents,
particularly respondent no. 2 to issue passport to the
petitioner.*

*(ii) For any other relief/ reliefs to which the
petitioner may be entitled to in the facts and
circumstances of the case.*

3. Learned counsel for the petitioner has submitted
that the petitioner had applied for his passport through online
mode 29.07.2021, bearing PA-1065495424621, A.R.N.



210005784910. In the said application form, he had mentioned his date of birth as 25.08.1999, as recorded in birth certificate and matriculation certificate and the date of birth of the petitioner as per Birth Certificate issued by Municipal Corporation, Phulwari as well as recorded in Aadhar Card and also in his 10th certificate is as 25.08.1999. The petitioner for his education as well as for other purposes has been mentioning his date of birth as 25.08.1999.

4. Learned counsel for the petitioner further submits that admittedly when the petitioner was minor, his father applied for passport, in which his date of birth was mentioned as 15.04.1997 on the basis of birth certificate issued in the year 2006. The passport was issued to him on 30.08.2006 and it expired on 29.08.2011. He further submits that the said passport was never ever used by the petitioner in any manner whatsoever, even the date of birth mentioned in the passport i.e. 15.04.1997 has not been used by the petitioner in any manner, neither in school nor for any other purposes and when the petitioner applied for his new passport on 29.07.2021, he had categorically given the number (details) of the earlier passport issued to him, meaning thereby that he has not concealed any material facts.



5. Learned counsel for the petitioner further submits that petitioner is willing and ready to surrender or to have his earlier birth certificate 15.04.1997/ cancelled. Petitioner is pursuing his M.B.A. and requires passport to go abroad for higher studies and work, which is being denied by the respondent because of differences in his date of birth in the earlier application filed by the petitioner for passport and in the educational certificates.

6. Learned counsel for the petitioner further submits that admittedly the earlier birth certificate in which the date of birth of the petitioner has been mentioned as 15.04.1997, is not being used by the petitioner in school, college, or any other institutions and in the matriculation certificate, date of birth of the petitioner has been recorded as 25.08.1999. It is mentioned as 25.08.1999 and in his Aadhar Card also has the same date of birth 25.08.1999 which is the actual date of birth of the petitioner and is being used by him for all purposes.

7. Learned counsel for the petitioner further submits that the respondent no. 2 has failed to appreciate that the best proof of age of the petitioner as per the law is his birth as well as matriculation certificate which the petitioner has provided in which his date of birth is registered on 25.08.1999.



Moreover, the earlier passport, in which date of birth by mistake has been recorded as 15.04.1997, has already been cancelled and the petitioner had never used the said passport for going abroad or taken advantage of date of birth recorded in it in any manner or for any other reason and it was just a human error for which the petitioner did not take any benefit out of it.

8. Learned counsel for the petitioner further submits that the case of the petitioner is squarely covered by a judgment of this court in the case of ***Nida Amina Ahmad V/s Union of India*** reported in ***2023 SCC OnLine Pat 485*** wherein after going through the circular and other materials, this court has held:-

“In view of aforementioned Circulars, exemption should be given to the petitioner who was minor at the time when passport with alleged incorrect date of birth was issued to her. As and when she applied after attaining the age of majority, the PIA irrespective of the duration of the issuance of passport was required to accept her case for consideration and it is satisfied with the claim and documents(s) submitted by the applicant, may accept her request for change of date in the passport without imposition of any penalty.”

9. Learned counsel for the respondents has submitted that in his earlier application, the petitioner's date of birth was shown as 15.04.1997 on the birth certificate issued by



Registrar, Patna Municipal Corporation and accordingly, date of birth was recorded on the passport bearing no.F9213209 dated 30.08.2006 and vide file No. PA 1071884802018 the petitioner applied for re-issuing of passport with a request to change in his date of birth as 25.08.1999 but he was asked to produce fresh birth certificate with correct date of birth but he did not submit the same and after giving one more reminder, when the applicant did not turn up, the file was closed on 11.04.2018.

10. Learned counsel for the respondents further submits that no error took place so far as the office of the respondents is concerned. The date of birth mentioned in the passport no. F9213209 was based on the inputs provided by the father of the petitioner. The police verification report had also vetted his date of birth and again on 11.03.2018, a letter was issued to the petitioner but considering no reaction on the part of the petitioner as against the letters therefore ultimately his file was closed.

11. Learned counsel for the respondents further submits that petitioner again applied vide file no. PA1065495424621 for a fresh passport by suppressing his previous passport and his earlier application applied in 2018 and again the petitioner was asked to produce his previous passport



along with fresh Birth certificate and cancellation of old birth certificate as per rule but this time also the petitioner did not submit the document.

12. I have considered the submissions of the parties.

13. It is not in dispute that earlier the passport which was issued to the petitioner by mentioning the date of birth as 15.04.1997 was issued when the petitioner was a minor. Now, after becoming major, the petitioner wants to get a new passport issued with the corrected date of birth which is in accordance with the certificate issued by the authorities.

14. The petitioner has never used the old passport. The petitioner has never mentioned his date of birth as 15.04.1997 or used the same in any documents. The petitioner is not involved in any criminal activities / incidents which warrants the closure of the file of the petitioner for issuance of fresh passport with the new date of birth.

15. In view of the law laid down by this court in the case of *Nida Amina Ahmad* (Supra) and the discussions made above, this application is allowed. The respondents are directed to issue a new passport with the corrected date of birth i.e. 25.08.1999 to the petitioner within one month of the application



made by the petitioner.

16. This application stands allowed.

(Sandeep Kumar, J)

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