

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 112 OF 2022**

Cassiano D. Castelino, Son of late Mr. Jose
Xavier Castelino, Aged about 62 years,
Resident of House No. 545/1, Bounta Wado, ... Petitioner
Assagao, Bardez, Goa.

V e r s u s

Regional Passport Officer, External Affairs
Ministry, Passport Bhavan, Patto, Panaji, ...Respondent
Goa.

Mr. John A. Lobo, Advocate for the Petitioner.

**Mr. Mahesh Amonkar, Central Government Standing
Counsel for the Respondent.**

**CORAM: B. P. COLABAWALLA, J
DATED: 1st MARCH 2023**

ORAL JUDGMENT

1. Rule. With the consent of the parties, Rule is made returnable forthwith and heard finally. Learned Central Government Standing Counsel waives notice on behalf of the Respondent.

2. The above Petition is filed seeking to quash and set aside the Order dated 22nd February, 2022, passed in Criminal Misc. Application No. 559/2021/C/A passed by the Court of Judicial Magistrate First Class at Mapusa, Goa. A further direction is sought that the Respondent (Regional Passport Officer, Patto, Panaji, Goa),

be directed to correct (i) the Petitioner's date of birth to 13.08.1960; (ii) the Petitioner's name from "Cassian Dominic Castelino" to "Cassiano Domingos Castelino"; (iii) his father's name from "Joseph Xavier Castalino" to "Jose Xavier Castelino"; (iv) his mother's name from "Isabella Castalino" to "Isabel Fernandes"; and (v) his spouse's name from "Carmeline Castalino" to "Maria Margarida Carmelina Fernandes", in the Passport issued to the Petitioner.

3. It is the case of the Petitioner that in 2017, after going through the various documents, namely the Passport, the Birth Certificate, the Baptism Certificate, the Marriage Certificate, the Senior Citizen Identity Card, the Pan Card and the Aadhar Card, he realized that his Passport details do not correctly tally with the details as reflected in his Birth Certificate, the Baptism Certificate and the Marriage Certificate. In these circumstances, he sought a correction of these entries in the Passport for changing his date of birth, correcting his father's name, his mother's name as well as his wife's name. Such an Application was originally made before the Passport Authorities. The Passport Authorities refused to carry out the corrections as sought for by the Petitioner on the ground that the Application was made beyond the period of five years from the date of first issuance of Passport which was in 1992.

4. Since the Passport Authorities refused to carry out the aforesaid corrections, the Petitioner under the provisions of Section 5 of the Passport Act, 1967 read with Section 21 of the General Clauses Act, approached the Court of Judicial Magistrate at Mapusa, Goa, seeking the aforesaid corrections. Along with the said Application, the Petitioner also filed an Application seeking a condonation of delay. Both these Applications were dismissed by the impugned Order.

5. I have heard Mr. Lobo, the learned Advocate appearing on behalf of the Petitioner and Mr. Mahesh Amonkar, the learned Central Government Standing Counsel appearing for the Respondent. I find that the Order passed by the Magistrate is wholly unsustainable. The only reason for rejecting the Application filed by the Petitioner can be found in Paragraph 5 of the impugned Order. The Judicial Magistrate First Class held that the first passport was issued to the Petitioner on 21.10.1992 and which was periodically renewed by him with the same details till the issuance of the last passport dated 16.8.2017. The Judicial Magistrate First Class held that no explanation was given by the Petitioner as to why he did not apply for the aforesaid corrections within five years of the issuance of the first Passport. What the learned Judicial Magistrate First Class has completely overlooked is that the Petitioner was an orphan and the details that were originally incorporated in his Passport were on

the basis of a School Leaving Certificate. It is only in 2017, that the Petitioner was able to obtain his birth certificate and thereafter started correcting all his public documents. In fact, his Aadhar Card as well as his Pan Card reflect his correct name as well as correct date of birth.

6. That apart, on 24.11.2022, in the Official Gazette of the Government of Goa, an affidavit is also published wherein it is stated that the Petitioner was born on 13.08.1960 and that the name as per birth certificate is “Cassiano Domingos Castelino” and that he is the son of “Jose Xavier Castelino” alias “Joseph Xavier Castelino” alias “Joseph Castelino” and “Isabel Fernandes”, natives of Pomburpa-Goa. In the affidavit it is also stated what is his name as per the Aadhar Card as well as the Pan Card.

7. From the record it is clear that the corrections sought by the Petitioner are on the basis of a public record namely the birth certificate of the Petitioner, the marriage certificate of the Petitioner as well as his Aadhar and Pan cards. In such a situation, I fail to understand why the Judicial Magistrate First Class refused to condone the delay and direct the Respondent to carry out the corrections and reflect the correct names and date of birth in the Passport issued to the Petitioner.

8. I find that the explanations as given by the Petitioner in the Application filed before the Judicial Magistrate First Class as well as in the present Petition, are sufficient enough to direct the Respondent to carry out the corrections as sought for in the above Petition.

9. In these circumstances, the above Petition is made absolute in terms of the amended prayer clause (a), which reads thus :

“(a) To issue an appropriate Order or direction quashing and setting aside the impugned order dated 22nd February, 2022, passed in Criminal Misc. Appln. No. 559/2021/C/A passed by the Court of the Judicial Magistrate First Class at Mapusa, Goa, and command the respondents to correct the Petitioner's Date of Birth to 13.08.1960, the Petitioner's name from “Cassian Dominic Castelino” to “Cassiano Domingos Castelino”, his father's name from “Joseph Xavier Castalino” to “Jose Xavier Castelino”; Petitioner's mother's name from “Isabella Castalino” to “Isabel Fernandes” and his spouse name from “Carmeline Castalino” to “Maria Margarida Carmelina Fernandes”.”

10. Rule is made absolute in the aforesaid terms and the above Petition is disposed of in terms thereof. However, there shall be no order as to costs.

11. This Judgment/Order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

B. P. COLABAWALLA, J

ANDREZA PEREIRA  Digitally signed by ANDREZA PEREIRA
Date: 2023.03.03 12:54:24 +05'30'