



W.P.No.16532 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:10.08.2023

Delivered on: 21.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.16532 of 2017

N.K.Sivakumar

...Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Rippon Building, Chennai - 600003.

2. The Zonal officer
Zone No.10 (Old Zone No.8)
Corporation of Chennai
New No.117, Old No.64, N.S.K.Salai
Kodambakkam, Chennai - 600024
Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents herein to change the petitioner's daughter name "S.BHUVANESWARI" instead of "S.Aishwarya" in the Birth Register of the Corporation of Chennai on the



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basis of the petitioner's petition dated 31.12.2015 at the earliest.

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: Mr.N.K.Sivakumar-Party-in-Person

For Respondents : Mrs.P.T.Ramadevi, SC(Corporation)

ORDER

(Order of the Court was made by P.B.BALAJI,J.)

The Petitioner is a party in person and he seeks a direction to the Respondents to change the petitioner's daughter's name as "S.Bhuvaneswari" instead of "S.Aishwarya" in the Birth Register of the Corporation of Chennai on the basis of the Petitioner's petition dated 31.12.2015.

2. It is the case of the petitioner that though his daughter was initially named as S.Aishwarya, subsequently her name has been changed to S.Bhuvaneswari, following the mandatory procedure in that regard. Thereupon, he requested the respondents to issue a fresh Birth Certificate for his daughter incorporating the changed name. The petitioner had sent a registered letter dated 31.12.2015, requesting the respondents to change the name in the birth register and the said letter had been received by the



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respondents on 05.01.2016. The petitioner also sent reminders dated 05.05.2016 and 03.10.2016, requesting the 2nd respondent to change the name in the birth register and a reply has been sent by the 2nd respondent on 15.10.2016, stating that change of name could not be effected and that the Government Gazette can be utilized for all purposes. Despite his application enclosing all relevant documents, the respondents had not taken any action, quoting Section 5.2 Chapter 5 of Birth and Death Register Book 2005 and the proceedings of the Principal Registrar in Na.Ka.No.85876/SBH-1/S1/2001 dated 18.07.2001. Under such circumstances, the petitioner has approached this Court.

3. The respondents have filed a counter stating that the name cannot be changed as requested by the petitioner and relying on a Circular in C.No.85876/SBH-1/S1/2001 dated 18.07.2001, the respondents contend that both the Birth Certificate carrying the earlier name and the Government Gazette carrying the new name go together and it would be sufficient proof of change of name. According to the respondents, therefore, the request of the petitioner was rightly rejected.



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4. Heard the party in person, Mr.N.K.Sivakumar and Mrs.P.T.Ramadevi, Standing Counsel for Corporation appearing for the respondents 1 and 2. We have also perused the records.

5. During the course of arguments, the party in person would rely on a Division Bench judgment of this Court in *The Commissioner, The Pallavaram Municipality, Chromepete, Chennai Vs. S.K.Syed Rafiullah & Ors*, reported in *2016-3 L.W 863*, where in identical circumstances, this Court has directed the Corporation to effect the name change and issue a fresh birth certificate.

6. We have perused the Judgement of the of the Hon'ble Division Bench, in identical circumstances, the Division Bench upheld the order of the Writ Court directing issuance of a fresh Birth Certificate, incorporating the changed name as per the Government Gazette relying on Section 15 of the Registration of Births and Deaths Act, 1969 holding that entries can be corrected or also cancelled, however, without any alteration in the original entry by carrying out the correction or cancellation by way of a marginal entry, depending the date of the correction or cancellation as the case may



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be and held that when the request is only for change of name of the minor, that too published in the Government Gazette, then the officer concerned is duty bound to change the name and issue a fresh Birth Certificate, adding that such a procedure would not amount to violation of Section 15 of the Act.

7. The counsel for respondents fairly submitted that she has verified with regard to the said decision of this court and that the order passed by the Division Bench in the earlier matter was also in identical circumstances and therefore the present writ petition also could be allowed in terms of the judgment passed by Division Bench of this Court in ***The Commissioner, The Pallavaram Municipality, Chromepte, Chennai Vs. S.K.Syed Rafiullah & Ors***, referred herein supra.

8. The petitioner/party in person also invited our attention to an appeal filed by the Corporation of Chennai, in similar circumstances, in W.A.No.1731 of 2018, where the Writ Court had directed a change of name to be effected and a fresh Birth certificate to be issued. Recently, on 10.07.2023, we recorded the fact that the order of the Writ Court was



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complied with and dismissed the said W.A.No.1731 of 2018 as infructuous. Infact only because of the pendency of the Writ Appeal, this Writ Petition also came to be listed before us.

In view of the above, we do not find any difficulty in allowing the writ petition in line with the ratio laid down by the Hon'ble Division Bench in *The Commissioner, The Pallavaram Municipality, Chromepete, Chennai Vs. S.K.Syed Rafiullah & Ors*, reported in *2016-3 L.W.863*. For all the above reasons, the writ petition is allowed and the respondents shall effect change of name of the petitioner's daughter as "S.Bhuvaneswari" instead of "S.Aishwarya" in the Birth Register maintained by the Corporation of Chennai and such exercise shall be completed within a period of four weeks from the date of receipt of copy of this order in accordance with law.

In fine, the Writ Petition is allowed. No costs.

(D.K.K.J) & (P.B.B.J)
21.08.2023

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No
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To



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(kpr)

Pre-delivery judgment in
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