



W.P(MD)No.13795 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.13795 of 2023
and WMP(MD)No.11633 of 2023

Syed Beema

... Petitioner

Vs

1. The District Collector,
District Collectors Office, Tirunelveli,
Tirunelveli District.

2. The Tahsildar,
Taluk Office, Cheranmahadevi,
Tirunelveli District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to second respondent proceedings made in online order in Application No. TN-3202207223560, dated nil, quash the same, and further direct the second respondent to issue Nativity Certificate to petitioners daughter namely Aalia Rumana, within a stipulated period as may be fixed by this Court.



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For Petitioner : Mr.K.Sundar
For Respondents : Ms.D.Farjana Ghousia
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus, seeking interference with the order of the second respondent/Tahsildar, Cheranmahadevi, Tirunelveli District in application No. TN-3202207223560 and consequently direct the second respondent to issue Nativity Certificate to the daughter of the petitioner namely Aalia Rumana.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner is a citizen of India. Her husband was working in Dubai, still he is also a citizen of India. Consequent to employment, the petitioner was residing along with her husband. The daughter was born in Dubai. The daughter is also citizen of India. After completing her school education, she wants to pursue MBBS. She requires nativity certificate.



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3.In the impugned order the request of the petitioner was rejected by the respondents stating that the parents of the daughter are not residing in the specific village/Arikesavanallur at Tirunelveli District.

4.The learned counsel for the petitioner claimed that similar issue had been earlier dealt with by a learned Single Judge of this Court in ***WP(MD)No.20516 of 2022 in Swathi Radhakrishnan Vs. The District Collector, Trichy District and others***. The learned Single Judge by order, dated 01.09.2022, in that case held that though the petitioner therein was also born in Kuwait and did schooling in Kuwait, the nativity certificate will have to be issued. The reason of the learned Single Judge is given as follows:

“5. I am not able to appreciate the stand taken by the second respondent. In fact the issue on hand is no longer res integra. A learned Judge of Madras High Court vide Order dated 11.11.2020 made in W.P.No.15393 of 2020 (Varsha Parappa Totagi V. The District Collector, Chennai) had already decided the issue. It was held that merely because a person has been absent from the State on account of employment, he or she will not lose his or her permanent



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residence in the State. In the case on hand, the petitioner's father went to Kuwait only for employment purposes. The petitioner happened to be born in Kuwait because her parents resided in Kuwait. Even though the petitioner had done her entire schooling in Kuwait, it is difficult to conclude that the family had domiciled in Kuwait. When the parents are from Tamil Nadu and the grandparents are also from Tamil Nadu, the petitioner can only be called as a Tamilian. I hold that the petitioner is a native of Tamil Nadu. It is obvious that the expression “ nativity ” denotes the roots on which a person is anchored.

6. In that view of the matter, the petitioner can only be a native of Tamil Nadu. Therefore, respectfully following the aforesaid order dated 11.11.2020 made in W.P.No. 15393 of 2020 (Varsha Parappa Totagi V. The District Collector, Chennai), the order impugned in this writ petition is quashed. The second respondent is directed to issue Nativity Certificate, certifying that the petitioner hails from Srirangam Taluk. The second respondent shall issue the Nativity Certificate to the petitioner within a period of seven days from the date of receipt of a copy of this order.”

5.It is contended by the learned counsel for the petitioner that in this case the daughter of the petitioner had studied in Tirunelveli. While applying for MBBS Course, among various certificates to be produced, one of the certificate required is nativity certificate. The



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daughter still remains as an Indian citizen.

6.In view of the consistent stand taken by this Court, the impugned order is struck down and a direction is given to the second respondent to issue nativity certificate to the petitioner's daughter namely Aalia Rumana, within a period of ten working days, from the date of receipt of a copy of this order.

7.Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.06.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No
PNM

To

1. The District Collector,
District Collectors Office, Tirunelveli,
Tirunelveli District.
2. The Tahsildar,
Taluk Office, Cheranmahadevi,
Tirunelveli District.



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C.V.KARTHIKEYAN, J.

PNM

ORDER IN
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