



WP(MD)No.20732 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD).No.20732 of 2022

Sulthan Abdul Kader

... Petitioner

Vs

1.The Government of India,
Ministry of External Affairs,
Regional Passport Office,
Madurai, Bharathi Ula Veethi,
Race Court Road,
Madurai – 625 002.

2.The Passport Officer,
Passport Seva Kendra – Madurai,
Claret Plaza, Melakkal Main Road,
Kochadai,
Madurai – 625 016.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the second respondent to consider the petitioner's representation, dated



WP(MD)No.20732 of 2022

24.07.2021 and his application in MD 1073501299121, ARN: 21-1004260177, dated 09.08.2021 forthwith and to reissue fresh passport to the petitioner by altering the correct date of birth of the petitioner as 28.04.1960, instead of 21.04.1960 within the time stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.P.Paul Pandi

Central Government Standing Counsel

ORDER

The petitioner was issued with a passport in the year 1982, when he was 22 years old and the same was periodically renewed. While applying the passport, the petitioner's date of birth has been wrongly mentioned by his parents as 21.04.1960 instead of 28.04.1960. Now the petitioner is intending to go to Mecca for Hajj yatra, he approaches the passport authority for renewal. On verification of the passport along with the renewal application, it was found that the petitioner's date of birth has been wrongly mentioned as 21.04.1960 instead of 28.04.1960. Hence, he submitted an application and filed this writ petition.



WP(MD)No.20732 of 2022

WEB COPY

2.The learned counsel appearing for the petitioner has relied upon the orders of this Court in WP(MD) No.20475 of 2017, dated 07.11.2017 and the Judgment of Division Bench of Punjab and Haryana High Court, in ***Resham Singh Vs Union of India***, reported in **(2008) 149 PLR 621** in order to substantiate his case.

3.The learned standing counsel appearing for the respondents submits that there is no provision enabling the passport authorities to change the date of birth in the passport, which has already been issued long ago. However, in the event, if any direction is issued by this Court, it would be considered accordingly.

4.This Court considered the submissions made on either side.



WP(MD)No.20732 of 2022

5.Originally, the petitioner was issued with a passport in the year 1982, when he was 22 years old. However, his date of birth has been wrongly mentioned in the passport as 21.04.1960 instead of 28.04.1960. The petitioner claims that now he is having a proposal to go to Mecca for Hajj yatra and on filing of an application for renewal of his passport, it was found that his date of birth was wrongly mentioned. Therefore, he approached the passport authority. However, it was denied by the officials to correct the date of birth of the petitioner in the absence any provision. The learned counsel for the petitioner has relied upon the order of this Court in WP(MD) No.20475 of 2017, dated 07.11.2017, wherein, the learned Additional Solicitor General, who appeared in that matter has submitted that if the application is made for change of date of birth, it would be considered within a reasonable time and in view of the submission of the learned Additional Solicitor General, this Court has issued a direction to issue a revised passport after imposing a levy of penalty for having furnished the wrong date of birth. In the another Judgment referred by the petitioner's counsel



WP(MD)No.20732 of 2022

reported in **(2008) 149 PLR 621**, it was held that by referring Section 21 of the General Clause Act, the authority, who made an endorsement in the passport is empowered to add, amend, vary the order already issued.

6.As pointed out by the learned Standing counsel in the absence of any enabling provision, this Court is not inclined to issue any such directions. However, considering that the passport has been issued to the petitioner in the year 1982 and subsequently it was renewed periodically and now the petitioner is intending to renew the passport for the purpose of Hajj yatra, this Court is inclined to dispose of this writ petition with the following directions.

- i. The petitioner shall apply for a fresh passport with correct date of birth along with other relevant documents within a period of 10 days from the date of receipt of a copy of this order.



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WP(MD)No.20732 of 2022

- ii. On receipt of such application, the first respondent shall issue a fresh passport with correct date of birth, treating the application afresh, by cancelling the earlier passport issued to the petitioner, in accordance with law, within a period of four weeks from thereon.

7. With the above directions, this writ petition is disposed of.

No costs.

28.07.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes

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WP(MD)No.20732 of 2022

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WP(MD)No.20732 of 2022

B.PUGALENDHI, J.

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W.P.(MD).No.20732 of 2022

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