



W.P(MD)No.15137 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15137 of 2015

R.Senthilkumar

... Petitioner

Vs.

The Assistant Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai – 625 002.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, directing the respondent
to renew the petitioner's passport and to issue passport vide his
application submitted on 25.02.2015 in File No.MD2078319704715.

For Petitioner : Mr.P.Subbaraj

For Respondent : Mr.G.Rajaraman
Central Government Standing Counsel



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ORDER

The petitioner is a holder of Indian passport. He originally obtained passport on 07.07.1997. It was renewed subsequently. The petitioner was working in the Indian Army from November 1997 to July 2013. The petitioner has since retired and now wants to look for overseas opportunities. The petitioner came to know that in the passport his date of birth has been mentioned 06.12.1975. He wants it to be altered as 06.12.1978. Though the petitioner approached the respondent, till date it has not been favourably considered. That led to the filing of this writ petition.

2.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

3.The respondent has filed counter affidavit and the learned Central Government Standing Counsel took me through its contents. He



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pointed out that the petitioner is liable for action under Section 10(3)(b) of the Passport Act, 1967. After obtaining passport, it is not open to the petitioner to seek alteration of the date of birth after 18 years. He placed considerable reliance on the order dated 16.08.2012 made in W.P.(MD)No.8787 of 2012. The learned standing counsel would point out that the factual matrix obtaining in W.P.(MD)No.8787 of 2012 and the present case are similar. He called upon this Court to dismiss the writ petition.

4.I carefully considered the rival contentions and went through the materials on record. There is no provision in the Passport Act or in the Rules framed thereunder for empowering the authority to alter the date of birth. However, as a matter of practice, alteration in the passport entries are done pursuant to the Court orders.

5.The learned Central Government Standing Counsel is right in his contention that the petitioner had given wrong information while obtaining passport in the year 1997. But the fact remains that the petitioner had subsequently filed Cr.M.P.No.1976 of 2014 on the file of



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Judicial Magistrate No.II, Kovilpatti and got direction to the authorities to register his date of birth as 06.12.1978.

6.Section 13(3) of the Registration of Births and Deaths Act, 1969 is as follows:-

“13. Delayed registration of births and deaths.

(1)

(2)

(3) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.”

7.The said provision does not envisage that the passport authority should be shown as respondent. It only casts duty on the magistrate concerned to verify the correctness of the particulars furnished by the applicant. When there is a judicial order in favour of the petitioner under Section 13(3) of the Registration of Births and Deaths Act, 1969, this Court would be justified in issuing a direction to the respondent to make necessary changes in the petitioner's passport.



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8.The learned Judicial Magistrate No.II, Kovilpatti vide order dated 22.04.2014 had held that the petitioner's actual date of birth is 06.12.1978. This order has not been set aside or stayed till date. I, therefore, direct the respondent to alter the petitioner's date of birth as 06.12.1978. This writ petition is allowed. No costs.

13.07.2023

NCC : Yes/No
Index : Yes / No
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G.R.SWAMINATHAN, J.

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