



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.28726 of 2022 and
W.M.P.(MD)No.22716 of 2022

Gayathri Raveendran

... Petitioner

Vs.

1. The Commissioner,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Tiruchirappalli – 620 001.

2. The Registrar (Birth & Death),
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Tiruchirappalli – 620 001.

3. The City Health Officer,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Tiruchirappalli – 620 001.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the first respondent dated 29.08.2022 in Na.Ka.No.Su.Aa(Bi.E)/KA/12477/22 and quash the same and consequently direct the respondents 1 to 3 to change the name of the petitioner's son from “ B.Vignesh” to “ VIGNESH VENKATA RAMANA” and the petitioner's name from



“B.Gayathri” to “GAYATHRI RAVEENDRAN” in the petitioner's son birth certificate and issue a fresh birth certificate.

For Petitioner : Mr.T.Narayanan

For Respondents: Mr.R.Baskaran,
Additional Advocate General.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner got married to one P.Balamurugan on 01.12.2006. A male child was born on 25.09.2009 at Jagadha Maternity Home, Thillai Nagar, Tiruchirappalli. Trichy City Municipal Corporation issued Birth Certificate in which the name of the child was mentioned as B.Vignesh and the petitioner's name was mentioned as B.Gayathri. The relationship between the petitioner and her husband came under strain and the marriage was dissolved on 14.12.2016. Subsequently, the petitioner got married to one Venkata Ramana Gopalakrishnan on 18.02.2018. Now there is a proposal to move to Mexico. At this stage, the petitioner encountered difficulty. The petitioner's child Vignesh is with



the petitioner. But his name has been entered in the passport as Vignesh Venkata Ramana. However, his name appears as B.Vignesh in the Birth Certificate. The petitioner's name also appears as B.Gayathri in the said certificate. The petitioner's name is mentioned in the passport as Gayathri Raveendran. The petitioner therefore wants corresponding changes to be made in the passport and the birth certificate of her son. A request was made to that effect. However by the impugned communication dated 29.08.2022, the petitioner's request was negatived. Challenging the same, the present writ petition came to be filed.

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

4. The learned Additional Advocate General appearing for the respondents submitted that the request made by the petitioner cannot be accepted. He took me through the



instructions governing the procedure for making corrections in the Registration of Births. He submitted that the impugned communication is very much in consonance with the said instructions. He also points out that there is no authorisation for the authority to correct typographical errors. He called for dismissal of this writ petition.

5. I carefully considered the rival contentions.

6. No doubt the statutory provisions as well as the instructions framed by the authorities are in support of the stand taken by the learned Additional Advocate General. However, this Court had consistently conceded similar requests. My attention is drawn to the order dated **21.06.2021** made in ***W.P.(MD)No.161 of 2021 (Pandiselvi V. The Commissioner, Periyakulam Municipality, Periyakulam)***. Paragraph Nos.5 and 7 of the said order reads as follows:-

“5. In the considered view of this Court, several orders have been passed by this Court, wherein, this Court has taken into consideration



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the fact that except the birth certificate, in all the other certificates, the name is different and therefore, this Court had directed appropriate correction to be made in the birth certificate also. Useful reference can be made to the order passed by this Court in W.P.(MD) No.6626 of 2019, dated 10.09.2020. The relevant portions in the order are extracted hereunder:

“5.Though I find the submission of the learned standing counsel to be persuasive, the learned counsel appearing for the petitioner brought to my attention to the order dated 07.01.2016 made in W.P.No.30766 of 2015 (S.K.Syed Rafiullah V. The District Collector and Another). The learned Judge in the said order had held as follows:-

5.In the case of A.James V. The Commissioner of Kodaikanal Municipality, an issue arose as to whether the name of the person could be corrected in the Birth Certificate by correcting a mistake which according to the



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petitioner therein was due to inadvertence. The Madurai Bench of this Court, after taking into consideration of the earlier order passed in W.P.No.296 of 2007, dated 14.06.2007, directed the authorities to effect the correction. The operative portion of the order in W.P. (MD).No. 7303 of 2014 dated 10.06.2014, reads as follows:

"3.Today when the matter was taken up for hearing, the learned counsel for the petitioner submitted that in identical matter, this Court following the judgment in W.P.No.296 of 2007, dated 14.06.2007, directed the respondents to amend the birth certificate within a specified time. Hence, following the same, a similar order has to be passed. The relevant portion of the judgment delivered by this Court in W.P.No.296 of 2007 dated 14.06.2007, reads as follows:

"3.It is a matter of fact that the claim of the petitioner deserves to be considered since the same has been changed through the Gazette Publication. Under the circumstances, by granting



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the relief sought for by the petitioner in the writ petition to have his name changed in the school register, by effecting the necessary changes in the birth certificate, neither the Government nor the school authorities is going to have a serious prejudice caused to them considering the purpose of issuance of certificate as per the enactment.

4.Learned counsel appearing for the respondent submitted that there are no provision to effect the same. It is not necessary that the Act should contain Rule for every aspect, particularly in matters where such amendments are not going into the root of the matter, when other things are satisfied namely, the date of birth, parents name etc. and Gazette Publication recording the change in the name of the child.

5.In the circumstances, the concerned authorities are hereby directed to effect the necessary change in the birth certificate as per the Tamil Nadu Gazette Notification and the school authority is also directed to carry out the



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necessary change thereon."

4.The dictum laid down in the above order, is squarely applicable to this case. In the present case also petitioner's daughter name has been published as 'Priya' in the Government Gazette. In such circumstances, there cannot be any impediment for the respondents to correct the same in the birth certificate. Hence, the writ petition is allowed and the concerned respondent is directed to issue birth certificate to the petitioner's daughter who was born on 08.02.1979, and corrected as 'Priya' as per the publication made in the Government Gazette on 27.06.2012, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

6.The respondents are unable to distinguish the aforementioned decision nor pointed out as to in what manner it is distinguishable on the facts of the present case. In



fact, in the said case, the correction was sought for after 32 years after the petitioner was born, whereas the petitioner has come before this Court to correct the name of the petitioner's son less than two years of his birth. Therefore, no prejudice would be caused, especially when the correct name has been published in the Tamil Nadu Government Gazette and also in the Newspapers.

7.In the light of the above, the Writ Petition is allowed and the impugned order is quashed and the 2nd respondent is directed to issue Birth Certificate to the petitioner's son, who was born on 01.11.2012 and correct the same as "R.Amanullah" as per publication made in the Government Gazette dated 09.10.2013, within a period of three weeks from the date of receipt of a copy of this order. No costs."

6.In my view the aforesaid decision is squarely applicable.

7.The petitioner's original name was



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R.N.V.Ragavan. He was born on 24.10.1995. The birth certificate issued by the respondents says so. Later, the petitioner got his name changed as V.Balaji. It was also duly published in the Tamilnadu Government Gazette, dated 30.03.2005. A copy of the same has also been enclosed in the typed set of papers. The petitioner now wants the corresponding correction to be made in the birth certificate.”

7. In view of the above, the present case is also squarely covered by the above order and the impugned rejection order dated 09.10.2020 issued by the first respondent is hereby quashed and there shall be a direction to the first respondent to incorporate the name of the petitioner as 'Pandiselvi' in the birth certificate and issue a fresh birth certificate to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order.”

7. My attention is also drawn to the decision of the



Hon'ble Apex Court in the decision reported in **2021 SCC**

OnLine SC 415 (Jigya Yadav V. CBSE). The Hon'ble Apex

Court held that the right to control one's identity is one's fundamental right. The issue can be approached from yet another angle. The petitioner's husband went to Mexico for his employment. The petitioner obviously wants to be with her husband. She wants to take her child along with her. If the petitioner's request is not accepted, certainly, the child's future prospects will be seriously affected. The petitioner's counsel states that Mexican Embassy has made it clear that unless the petitioner produces the corrected Birth Certificate issued by the respondents, it will not be able to issue Visa for the petitioner's child. The right to move abroad is a fundamental right. The petitioner's child is entitled to be with the petitioner. If the petitioner's request is rejected, her rights will be seriously infringed. Looking from this perspective, I am inclined to set aside the order impugned in this writ petition. It is accordingly set aside. The respondents are directed to issue correct Birth Certificate as prayed for by the petitioner. This shall be done as expeditiously as possible.



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8. This writ petition stands allowed. No costs.

Consequently, connected miscellaneous petition is closed.

25.01.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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