IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.14851 of 2024

Minor, Tarun Suresh Kumar
Aged about 17 years
Rep. By Suresh Kumar Venu
Father & Natural Guardian
Residing at
No.483, 25th Block,
Sathyamoorthy Nagar
Vyasarpadi,
Chennai – 600 039. .. Petitioner

vs

1.Government of Tamil Nadu
Rep. By the Principal Secretary,
Revenue Department,
Government of Tamil Nadu,
Chennai, Tamil Nadu.

2.Commissioner of Revenue Department,
377M-H63, PWD Estate,
Chepauk, Triplicane,
Chennai, Tamil Nadu 600 005.

3.The Zonal Deputy Tahsildar,
Perambur Part I,
No.3, Perambur High Road,
Perambur, Chennai – 600 011. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records on the file of the 3rd respondent and quash the impugned order dated 21.05.2024 passed in application no TN – 3202405122441 wherein the petitioners application for Nativity Certificate and supporting documents and precedents were rejected and consequently direct the 3rd respondent to issue a Nativity Certificate to the petitioner in terms of the various jsdgments passed by this Court.

For Petitioner : Mr.Chevanan Mohan

For Respondents : Mr.P.Harish,
Government Advocate

ORDER

The petitioner is a minor aged around 17 years at the institution of this writ petition. The deponent in the affidavit filed in support of the writ petition is his father, who is an employee with the Reserve Bank of India.

2. The petitioner wishes to pursue the study of Medicine and has appeared for the NEET examination held on 05.05.2024. The eligibility criteria prescribed for the NEET, includes a nativity certificate issued by the competent authority in the Government of Tamil Nadu if the petitioner is to be considered for admission in this State.

3. An application had been made by the petitioner on 02.05.2024, which came to be rejected on 04.05.2024 on the ground *'Not recommended based on RI report, applicant place of birth Maharashtra State hence Rejected'*. The petitioner claims to be a Tamilian and a native of Tamil Nadu. The petitioner did not give up and filed a second application on 08.05.2024, this time, accompanied with various documents in support of the same. It met with the same fate as the earlier application and came to be rejected on the same day.

4. The petitioner makes a third attempt vide application dated

12.05.2024 enclosing judgments in support of his claim of nativity. That application came to be rejected on 21.05.2024 as against which, the present writ petition has been filed.

5. A lukewarm submission made by the respondent is that the impugned order does not contain the word '*rejected*' and that the application has thus only been returned. This submission is rejected. The reasoning given in order dated 21.05.2024 is identical to the reasoning given in order dated 04.05.2024, that the birth place of the petitioner is Maharashtra. Since the order dated 04.05.2024 categorically rejects the application, it is very clear that order dated 21.05.2024 is also an order of rejection.

6. Mr.Chevanan Mohan, appearing for the petitioner argues that the parents of the petitioner are Tamilians, who were born and brought up in Tamil Nadu. The family home is at No.483, 25th Block, Sathyamoorthy Nagar, Vyasarpadi, Chennai 600 039 ('permanent address'). The aforesaid permanent address is where the paternal grandmother of the petitioner resides presently as well. Unfortunately, when the Revenue Inspector had inspected that address, she had been visiting the petitioner and the family at Kanpur where the petitioner's father is presently stationed. Hence the authorities assume that house is not presently inhabitated.

7. Learned counsel confirms that the petitioner's grandmother resides at the permanent address only. The petitioner and his family members also reside there whenever they visit Madras. He would also

draw attention to the fact that a ration card has been issued in respect of the permanent address and the petitioner's name figures therein.

8. Reliance is placed on the four judgments *(i) Varsha Parappa Totagi v the District Collector, Chennai District and another* [dated 11.11.2020, W.P.No.15393 of 2020], (ii) *Vardhini Parthasarathy v The State of Tamil Nadu, rep. By Principal Secretary to Government, Health and Family Welfare Department, Secretariat, Fort St.George, Chennai and others* [dated 20.11.2020, W.P.No.16292 of 2020], (iii) *Shwetha Suresh v The Tahsildar, Velachery, Chennai [*dated 15.07.2022, W.P.No.23836 of 2021] and (iv) *Swathi Radhakrishnan v The District Collector, Trichy District, Trichy and others* [dated 01.09.2022, W.P.(MD) No.20516 of 2022].

9. In the cases, the claim of those writ petitioners have been allowed accepting their nativity in similar facts and circumstances, as the present. Learned counsel for petitioner would also rely on G.O.Ms.No.2388 dated 27.11.1990 stating that the petitioner satisfies all the conditions set out therein.

10. Mr.P.Harish, learned Government Advocate, who appears for the respondents would first point out that the petitioner was born in Maharashtra and hence cannot claim nativity in Tamil Nadu. He would also draw attention to the Aadhar card of the petitioner's father, which contains the address *'Reserve Bank Staff Quarters, Besant Nagar, Chennai – 90'* submitting that if at all the application has to be considered, it would have to be submitted before the Velachery Taluk office. The Court

finds this submission hyper-technical as the larger and more fundamental question that arises and must be addressed relates to nativity of the petitioner in the State of Tamil Nadu and whether the rejection of the application on the ground that he was born in Maharashtra would at all be relevant.

11. The explanation offered is that the petitioner's father was stationed at Madras and was residing in the Reserve Bank Staff Quarters. The Court finds this explanation acceptable. The petitioner's father is stated to have commenced his career with the State Bank of India, Bombay originally and thereafter moved to the Reserve Bank of India, also in Bombay where and when the petitioner was born. He was stationed in Chennai for sometime and thereafter transferred to Kanpur, where he is presently stationed.

12. However, there is no dispute on the fact that the birth of the parents was in Chennai. The petitioner had studied in Bombay from standards Ist to Vth and in P.S.Senior Secondary School in Chennai between the VIth and Xth standards. The transfer certificate issued by P.S. Senior Secondary School, stands testimony to this fact. Thereafter, the petitioner studied in Kanpur completing his XIth and XIIth classes there.

13. Being the ward of a parent in a transferable job, this is an inevitable consequence and cannot be held to efface his roots. It also cannot be held against him for the issuance of nativity certificate. In this context, the guidelines set out under G.O. dated 27.11.1990 assume

importance and are extracted below:-

" <u>*ORDER*</u>

*In the Government letter 1st read above, instructions were issued to the certificate issuing authorities to the effect that while issuing nativity certificate the verification of permanent residential address, occupation of the applicant's parents / place and kind of employment, number of years they employed in that place etc should be done in case the parents are Government Servants. Besides, care should be taken to ensure that students who desire to have nativity certificates, have not furnish wrong address and the students had studied continuously for not less than 10 years in Tamil Nadu.*

*2. Inspite of the existing instructions certain difficulties were brought in the notice of the Government on the issue of / non issue of nativity certificate to the students who studied in Tamil Nadu from other states for a limited number of years, and also the insistence of 10 years residential qualification in Tamil Nadu. To ward off the above difficulties Government examined the issues in consultation with the Special Commissioner and Commissioner of Revenue Administration, the Director of School Education, the Director of Collegiate Education and the Director of Technical Education. The Government now prescribed the following guidelines to the Revenue Officials for adhering, strictly while issuing Nativity Certificates.*

*(1) The parents / guardians of the applicant students or the applicants themselves should have permanently resided continuously for a period of 5 years in Tamil Nadu for obtaining Nativity Certificates;*

*(2) Whether the applicant has resided in Tamil Nadu continuously for 5 years should be supported by documentary evidence;*

*(3) For proof of continuous stay for 5 years in Tamil Nadu, the certificate issuing officer may verify the family card (Ration Card), Electoral Roll Census List, if census has been taken recently and if the applicant or his parents owns property, documents relating to such property such as sale deed, house tax receipts etc;*

> *(4)Besides, the transfer certificate from the school in which the student last studied may be verified to know whether the applicant has studied in Educational Institutions in Tamil Nadu for the last five years continuously;*
> *(5) If considered necessary, the officers issuing a Nativity Certificate may enquire the Village Administrative Officers and conduct local enquiry to ascertain whether the applicant has resided in Tamil Nadu for more than 5 years continuously;*
> *(6) Officers, before issuing nativity certificates, should satisfy themselves beyond doubt that the applicants did not furnish wrong address for the purposes of obtaining Nativity Certificates; and,*
> *(7) The birth place of the parent, place of residence of the parent or grand father, permanent assets, mother tongue, place of education, place of marriage of the applicant / parents, the period of stay in and outside Tamil Nadu may also be taken into consideration before issuing nativity certificate.*
>
> *3. The Special Commissioner and Commissioner of Revenue Administration is requested to issue further instruction, if necessary, to the Collectors in order to make the system of issuing Nativity Certificate as a fool proof one."*

14. On a perusal of the guidelines would show that the petitioner satisfies substantially all the conditions set out therein; Clause 1, which states that the parents / guardians of the student should permanently reside for five years in Tamil Nadu, Clauses 2 and 3, which require the applicant to be resident in Tamil Nadu for five years, and the ration card containing the petitioner's name refers to the transfer certificate from the school where the student last studied. In this case, such TC contain the Kanpur Address.

15. It is not disputed by the respondents that the conditions contained in the guidelines are mutually exclusive and do not require

concurrent satisfaction. Hence, any block of five years would suffice to satisfy clause (2). Clauses (5) and (6) provides for enquiry to be conducted by the officers and in this case the factually particulars, as captured in the paragraphs supra, are not disputed by the respondents.

16. Clause (7) states that birth of the parents, place of residence of the parent or grandfather, permanent assets, mother tongue and place of education are also factors to be taken into consideration while deciding the question of nativity. In the present case, the mother tongue of child is Tamil and the the parents of the child were admittedly born and brought-up in Tamil Nadu, till they moved to other places in the country for the purposes of their career. The petitioner has himself studied in Madras.

17. In light of the discussion as aforesaid, I am of the unambiguous view that the petitioner claim nativity in Tamil Nadu. To protect against the claim of dual nativity based on the fact that the petitioner was born in Maharashtra, an affidavit of undertaking was called for. An affidavit dated 07.06.2024 has been filed to the effect that the petitioner would apply for nativity only in Tamil Nadu and not claim nativity elsewhere, including Thane, Maharashtra, Kanpur, Uttar Pradesh or any other State other than Tamil Nadu.

18. In light of the discussion as aforesaid, the impugned orders rejecting the claim of nativity are quashed. R3 will issue a nativity certificate forthwith and in any event within a period of one week from today.

19. Writ petition stands allowed in terms of this order. No costs.

13.06.2024

Index:Yes
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH,J.

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