



W.P(MD)No.650 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.650 of 2021

and

W.M.P.(MD)No.543 of 2021

R.Chenthil Kumar

... Petitioner

Vs.

The Assistant Passport Officer,
Office of the Regional Passport Office,
Bharathi Ula Veedhi,
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 Certiorarified Mandamus, to call for the records pertaining to the records issued by the respondent herein in his proceedings Policy Ref No.MD 1071094517718 dated 08.12.2020 and quash the same and consequently, direct the respondent to alter the petitioner's date of birth in the passport bearing No.N 5866271 based on the petitioner's representation dated 26.11.2020 given to the respondent within a time stipulated by this Court.

For Petitioner : Mr.C.Gangai Amaran

For Respondent : Mr.A.P.Rajasimman
CGSC



W.P(MD)No.650 of 2021

ORDER

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Heard both sides.

2. The petitioner seeks correction of his date of birth in his passport. He submitted an application in this regard. That was rejected by the respondent. Challenging the same, the writ petition came to be filed.

3. The learned counsel appearing 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 set aside the impugned communication and grant relief as prayed for.

4. The respondent has filed counter affidavit and the learned central government standing counsel took me through its contents. The stand of the respondent is that the petitioner had obtained his passport by suppression of the material facts and that therefore, he is not entitled to any indulgence at the hands of this Court. The learned standing counsel would further point out that when a deliberate misstatement was made by the respondent and on that basis, the passport was also originally obtained, the petitioner cannot be permitted to change the date of birth subsequently. My attention is also drawn to the fact



W.P(MD)No.650 of 2021

that after obtaining passport in the year 1997, renewal was also obtained in the year 2008 and that therefore, at this point joint of time, entry made in the passport cannot be altered. The stand of the respondent is that the passport is a sovereign document and that entry set out therein cannot be altered at the whims and fancies of the petitioner. The respondent pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. I must at the very outset sustain the stand of the respondent that the petitioner did play fraud on the respondent and obtained passport in the year 1997. But the question is whether on this ground, the petitioner should be denied relief by this Court. The petitioner belongs to SC community. The petitioner appears to have studied only upto 6th standard. The school record has been enclosed in the typed set of papers. It is seen therefrom that the petitioner was born on 15.04.1981. The petitioner probably got opportunity in middle east in the year 1997. He was aged only 16 then. Since obtaining of the passport would have been difficult, somebody should have misled the petitioner and that the passport was obtained by filing a self-serving affidavit. The petitioner admittedly was a minor in the year 1987. Therefore, an act committed during the petitioner's minority cannot be put



W.P(MD)No.650 of 2021

against the petitioner. Section 24 of the Juvenile Justice Act, 2015 states that a child who has committed an offence and has been dealt with under the provisions of the Juvenile Justice Act shall not suffer disqualification if any attached to a conviction of an offence under such law. Therefore, the parliamentary intention is that any misdemeanor or even an offence committed by a child should not come in his way later. I derive inspiration from the said provision. I hold that misdeclaration made by the petitioner during his minority should not be put against him. The petitioner hails from the socially uppressed background. Economically also, he is in a disadvantaged position. The petitioner's school record, voter ID card, Pan Card as well as Adhar card mention his date of birth as 15.04.1981. Therefore, the petitioner's passport should not contain any other age. In the petitioner's passport, his age has been mentioned as 17.02.1976. It is obviously an error. Since I am satisfied that the petitioner's correct date of birth is 15.04.1981, in the fitness of things, his passport should also reflect the petitioner's correct age. The passport should not contain an erroneous entry even if the petitioner is responsible for its original incorporation.



W.P(MD)No.650 of 2021

6. In this view of the matter, the impugned order is set aside. The respondent is directed to reissue the passport to the petitioner by mentioning his date of birth as 15.04.1981. The petitioner is permitted to submit a fresh application and the same will be entertained by the respondent and a fresh passport shall be issued subject to fulfilment of other usual formalities.

7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.01.2024

Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.650 of 2021

G.R.SWAMINATHAN, J.

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W.P(MD)No.650 of 2021

19.01.2024