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W.P.(MD)NO.4458 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4458 of 2024 AND

W.M.P.(MD)No.4287 of 2024

Muthuram Subbu

... Petitioner

Vs.

1. The District Collector,
Collectorate, Tirunelveli District,
Tirunelveli.

2. The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

3. The Deputy Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

... 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 3rd respondent in his Nil proceedings, dated Nil where he has rejected the petitioner's application in Application No.TN3202401292688 dated 29.01.2024 seeking for Nativity Certificate, quash the same as illegal and consequently direct the 2nd and 3rd respondents to issue Nativity Certificate to petitioner's son Master.M.Varun within the time frame fixed by this Court.

For Petitioner : Mr.V.Meenakshi Sundaram
For R-1 to R-3 : Mr.T.Villavankothai,
Additional Government Pleader.

* * *



ORDER

Heard both sides.

2. The petitioner wants Nativity Certificate for his minor son.

The petitioner was born in Nanguneri. He is also having Nativity Certificate recently issued by the jurisdictional Zonal Deputy Tahsildar.

3. However, the respondents are declining to issue such certificate for the petitioner's son for the reason that the petitioner is now virtually settled in Dubai. He is said to be employed for more than ten years there.

4. The question that calls for consideration is whether the petitioner's son can be denied Nativity Certificate for the aforesaid reason.

5. Vide order dated **01.09.2022** in ***W.P.(MD)No.20516 of 2022(Swathi Radhakrishnan V. The District Collector)***, I had held as follows:-

“ Heard the learned counsel on either side.

2. The writ petitioner was born in Kuwait on 06.07.2004. She had her entire schooling in the State of Kuwait. After completing her schooling, the petitioner wanted to join MBBS course. She had already written



NEET. The petitioner requires Nativity Certificate for joining in MBBS course under the Tamil Nadu colleges. When she approached the second respondent, the second respondent rejected her request on the ground that she was born in Kuwait and that she stayed therein up to 2020 and that her parents have also been at Kuwait. The second respondent had rejected the petitioner's request primarily on the ground that neither the petitioner nor her parents resided continuously in Tamil Nadu for the preceding five years. The second respondent had obviously gone by the terms of G.O.Ms.No.2388 dated 27.11.1990 issued by the Revenue Department.

3. The rejection order is put to challenge in this writ petition.

4. The learned Special Government Pleader submitted that the impugned order of the second respondent cannot be faulted.

5. I am not able to appreciate the stand taken by the second respondent. In fact the issue on hand is no longer res integra. A learned Judge of Madras High Court vide Order dated 11.11.2020 made in W.P.No.15393 of 2020 (Varsha Parappa Totagi V. The District Collector, Chennai) had already decided the issue. It was held that merely because a person has been absent from the State on account of employment, he or she will not lose his or her permanent residence in the State. In the case on hand, the petitioner's father went to Kuwait only for employment



purposes. The petitioner happened to be born in Kuwait because her parents resided in Kuwait. Even though the petitioner had done her entire schooling in Kuwait, it is difficult to conclude that the family had domiciled in Kuwait. When the parents are from Tamil Nadu and the grandparents are also from Tamil Nadu, the petitioner can only be called as a Tamilian. I hold that the petitioner is a native of Tamil Nadu. It is obvious that the expression “nativity” denotes the roots on which a person is anchored.

6. In that view of the matter, the petitioner can only be a native of Tamil Nadu. Therefore, respectfully following the aforesaid order dated 11.11.2020 made in W.P.No. 15393 of 2020 (Varsha Parappa Totagi V. The District Collector, Chennai), the order impugned in this writ petition is quashed. The second respondent is directed to issue Nativity Certificate, certifying that the petitioner hails from Srirangam Taluk. The second respondent shall issue the Nativity Certificate to the petitioner within a period of seven days from the date of receipt of a copy of this order.

7. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.”

6. The above case squarely applies to the facts on hand. Merely because Master.Varun was born at Kanchipuram, that cannot be a ground for rejecting the application for Nativity Certificate. The impugned communication is set aside. The petitioner is permitted to apply online



for Nativity Certificate for his son Master.Varun. The second respondent shall issue Nativity Certificate for the said Master.Varun within a period of three weeks from the date of receipt of such online application. This writ petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

11.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

To:

1. The District Collector,
Collectorate, Tirunelveli District,
Tirunelveli.
2. The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.
3. The Deputy Tahsildar,
Nanguneri Taluk,
Tirunelveli District.



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6

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G.R.SWAMINATHAN,J.

PMU

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