



W.P(MD)No.8326 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8326 of 2024

Regina Banu

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Registrar (Birth & Death)
Madurai North Taluk,
Madurai Municipality Ward,
Government Rajaji Hospital, Madurai.

3.The Tahsildar,
Madurai North Taluk,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd Respondent to change the name of father in the Birth Certificate of the petitioner's Son as Tamilselvan by deleting the name Thamim Ansari by considering the Petitioner's representation dated 22.03.2024.

For Petitioner : Mr.M.Ajmal Khan

For Respondents : Mr.P.Thambi Durai
Government Advocate



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ORDER

Heard the learned counsel on either side.

2. The case of the petitioner is as follows:-

The petitioner is a resident of Madurai. She fell in love with one Tamil Selvan who is a native of Ervadi. They got married on 09.02.2018 at Nagoor. The marriage was solemnized as per Islamic rites and customs. Tamil Selvan became Thamim Ansari. The petitioner became pregnant through the said relationship and was blessed with a boy baby on 11.07.2019. Delivery took place at the Government Rajaji Hospital, Madurai. The child's father's name was given as Thamim Ansari. The birth certificate was also issued accordingly. Thamim Ansari left the petitioner subsequently. The petitioner gave man-missing complaint. He is said to be somewhere in Perambalur. The petitioner approached AWPS, Perambalur and lodged a man-missing complaint. The petitioner was issued with CSR on 09.03.2021. The petitioner is unable to trace her husband. The petitioner's son Darus Riyan is now aged about four years and he has to be admitted in the school. The school authorities insisted on production of the birth certificate as well as the Aadhar Card of the parents. In the Aadhar card of her husband, his name is mentioned as Tamil Selvan and not as Thamim Ansari. The school authorities have called upon the petitioner



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to take admission for the child after resolving these discrepancies. The petitioner approached the second respondent. Since the second respondent expressed his inability, the present 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 took me through the materials enclosed in the typed set of papers and called upon this Court to grant relief as prayed for.

4. The learned Government Advocate submitted that the petitioner is thrice married. She first married one Syed Abudahi. Then she married one Thamim Ansari. Thereafter, she married Tamil Selvan. She had begotten children through each of such relationships. There is nothing on record to show that her earlier marriages were legally dissolved. In any event, the name of the father of the child was entered based on the particulars furnished by the petitioner and that therefore, the question of altering the same does not arise. The respondents pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. This is not a case which should be approached from the



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technical prospective. The petitioner's colorful past is not a relevant consideration either. The only issue with which I have to deal is regarding the child's future. The child is encountering difficulties in securing admission in the school on account of the discrepancies in the name of the father. Article 21-A mandates that the State shall provide free and compulsory education of all children in the age group of six to fourteen years. Article 41 also contains a similar mandate. This indicates the importance accorded by the constitution-makers to education. On the ground of discrepancy in the father's name in the record, the child should not suffer. The learned counsel for the petitioner has produced photographs showing the petitioner and Tamil Selvan standing like a couple. The birth certificate issued by the second respondent mentions the name of the father of the child as Thamim Ansari. The petitioner who is the mother of the child categorically asserts before this Court that Tamil Selvan is the father of the child. For the purpose of this case, the second respondent is directed to make the name change as sought for by the petitioner. In the original record maintained by the second respondent, the name Thamim Ansari shall be rounded off and the name of Tamil Selvan shall be substituted. The revised certificate to be issued by the second respondent will contain the name of only Tamil Selvan. I make it clear that the substitution of the name Tamil Selvan in the place of Thamim Ansari in the petition mentioned birth certificate



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is only for the purpose of enabling the child to secure admission in the school.

This cannot be used against Tamil Selvan / Thamim Ansari. In other words, on the strength of this certificate, maintenance claim cannot be lodged against Tamil Selvan. If the said claim is made and if Tamil Selvan denies his paternity, the issue will have to be independently contested and established. The second respondent shall issue the certificate as sought for by the petitioner within a period of five weeks from the date of receipt of a copy of this order.

6. The Writ Petition is allowed. No costs.

05.04.2024

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

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