



WEB COPY



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W.P.(MD)NO.13533 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13533 of 2024 AND
W.M.P.(MD)Nos.11931 & 11932 of 2024

Shanthi

... Petitioner

Vs.

The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Illuppur,
Pudukkottai District.

... Respondent

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 proceedings issued by the respondent vide O.Mu.A4/2360/24 dated 10.05.2204 and quash the same as illegal and also direct the respondent to issue date of birth certificate in favour of the petitioner as 14.12.1964.

For Petitioner : Mr.B.Jameelarasu

For Respondent : Mr.K.Balasubramanian,
Special Government Pleader.

* * *

**ORDER**

Heard both sides.

2. The petitioner applied to the respondent for registering her birth. The petitioner's request was rejected on the ground that the Registration of Births and Deaths Act, 1969 came into force only on 07.03.1970. The petitioner's birth took place before the same. Challenging the rejection order dated 10.05.2024 passed by the respondent, the present writ petition came to be filed.

3. The issue raised in this writ petition is no longer *res integra*. I already decided the issue vide order dated **25.03.2024 in W.P.(MD) No.6943 of 2024(Abdul Majeeth V. The Revenue Divisional Officer)**.

Paragraph Nos.5 and 6 read as follows:-

“5. I carefully considered the rival contentions and went through the materials on record. The first respondent asked a wrong question to himself. The question is not whether the Central Act 18 of 1969 is prospective or retrospective. The question is whether the petitioner can be granted relief. Before the Central Act 18 of 1969 was enacted, the registration of births, deaths and



marriages Registration Act, 1886 was governing the field.

Section 19 of the said Act reads as follows:-

“19. Duty of Registrar to register births and deaths of which notice is given.—Every Registrar of Births and Deaths of notice of a birth or death within the local area or among the class for which he is appointed, shall, if the notice is given within the prescribed time and in the prescribed mode by a person authorized by this Act to give the notice, forthwith make an entry of the birth or death in the proper register book:”

Section 22 of the said Act provide for entry of birth or death. Section 22 of the Act read as follows:

“22. Entry of birth or death to be signed by person giving notice.— (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar:”

Thus, there was a mechanism for registering one's birth and death. Of course, it was then optional. Only recently, it has been made compulsory. The learned Special Government Pleader drew my attention to Rule 9 of Tamil Nadu Registration of Births and deaths Rules, 2000 which is as follows:

“9. Authority for delayed registration and fee

**payable thereof under section 13**

(3) Any birth or death which has not been registered within one year of its occurrence shall be registered by an order of the Executive Magistrate not below the rank of a Revenue Divisional Officer and on payment of late fee of rupees Five hundred.”

6. If there was no system of registering one's birth prior to 1969, the impugned memorandum has to be sustained. But there was a statute governing the field. The petitioner's parents failed to register his birth. Therefore, Rule 9(3) of the Tamil Nadu Registration of Births and Deaths Rules, 2000 can very well be applied. If the petitioner is unable to furnish any proof, the first respondent cannot be expected to exercise his power. If the petitioner is able to furnish materials such as earliest entry in the school records, then certainly the petitioner's birth can be registered subject to payment of late fee.”

4. In this view of the matter, the impugned memorandum is set aside. The matter is remitted to the file of the respondent. The petitioner shall appear before the respondent on 08.07.2024 at 3.00 pm. The petitioner shall also furnish the materials available with her to show that she was born on 14.12.1964. If the respondent is satisfied with the materials furnished by the petitioner, the date of birth of the petitioner as sought for shall be entertained and the certificate shall be issued,



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thereafter. This writ petition stands allowed on these terms. No costs.

Consequently, connected miscellaneous petitions are closed.

26.06.2024

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

To:

The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Illuppur,
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WEB COPY



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G.R.SWAMINATHAN,J.

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