



W.P(MD)No.15053 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15053 of 2024

Pandiammal

... Petitioner

Vs.

The Revenue Divisional Officer,
Collectorate Campus,
Sivagangai.

... 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 relating the impugned order in Memorandum in O.Mu.A5/1012/2024 dated 29.04.2024 issued by the respondent and quash the same and consequently direct the respondent to issue death certificate for the petitioner's mother Verayee to the petitioner to issue death certificate for the petitioner's mother Verayee to the petitioner.

For Petitioner : Mr.M.Gurudas

For Respondent : Mr.K.Balasubramani,
Spl. Government Pleader.



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ORDER

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Heard both sides.

2.The petitioner's mother passed away on 18.05.1965. The petitioner wanted to register her mother's demise. The Revenue Divisional Officer issued the impugned memorandum dated 29.04.2024 stating that since the death took place before enactment of the Registration of Births and Deaths Act, 1969, the petitioner's request cannot be complied with. Challenging the same, this writ petition came to be filed.

3.The issue raised in the writ petition is no longer *res integra*. A similar issue relating to registration of birth arose in W.P.(MD)No.6943 of 2024. The writ petition was allowed by me on 25.03.2024. The said order reads as follows:

“Heard both sides.

2. The petitioner contends that he was born on 01.01.1960. His birth was however not registered. The petitioner was working abroad and he has come down to India. He wants to undertake to pilgrimage to Mecca and Madhina. He applied for re-issuance of passport. Since the passport authority insisted on furnishing of the birth certificate, the petitioner moved the first respondent. The first



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respondent rejected the petitioner's request on the ground that Tamil Nadu Registration of Births and Deaths Act, 1969, is not retrospective. Challenging the said stand taken by the first respondent, 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.

4. The learned Special Government Pleader appearing for the respondents submitted that the impugned order does not warrant interference.

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



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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 3 [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.

7. In this view of the matter, the impugned memorandum is set aside. The matter is remitted to the file of the first respondent. The petitioner is directed to appear before the first respondent on 24.04.2024 at 03.00 pm. The petitioner shall furnish the materials



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available with him to show that he was born on 01.01.1960. If the first respondent is satisfied with the materials furnished by the petitioner, his date of birth as sought for shall be entered and certificate issued thereafter.

8. The Writ Petition is allowed on these terms. No costs.”

The only difference between the two cases is that while W.P.(MD)No.6943 of 2024 pertains to registration of birth, the case on hand pertains to registration of death.

4. Adopting the very same approach, the impugned order is set aside. The matter is remitted to the file of the respondent. The respondent may satisfy himself on all the other material aspects. The respondent cannot take a stand that since the death took place before the enactment of the Registration of Births and Deaths Act, 1969, the death cannot be registered. Subject to the respondent being satisfied on other aspects, the petition mentioned death shall be registered.

5. The writ petition is allowed on these terms. No costs.

08.07.2024

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

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To:-

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