



W.P(MD)No.15117 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15117 of 2024

A.M.Sivamurugan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Virudhunagar District.

2.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

3.The Commissioner,
Virudhunagar Municipality Office,
Virudhunagar,
Virudhunagar 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 3rd respondent to consider the petitioner's representations dated on 16.02.2024 and 04.04.2024 within a time frame that may be stipulated by this Court on the basis of the 2nd respondent proceedings in Mu.Mu.A3/868/2024 dated 10.06.2024 and the Tamilnadu Government Gazette Published by the Authority on 28.07.2021.



W.P(MD)No.15117 of 2024

For Petitioner : Mr.R.Udhayakumar

For Respondents : Mr.G.V.Vairamsanthosh
Additional Government Pleader for R1 & R2

: Mr.K.P.Krishnadoss for R3

ORDER

Heard the learned counsel on either side.

2. The petitioner's son was born on 05.07.2020 at Vijay Clinic, Virudhunagar. The child was originally named as A.M.S.Prithvik Periyasamy. The birth certificate was also issued bearing the said name. The petitioner was advised to change his son's name as S.Prithvik. The petitioner caused gazette publication to be made. Thereafter, the petitioner approached the third respondent for issuance of the revised birth certificate. Since it was not considered, the present writ petition came to be filed.

3. The learned standing counsel for Virudhunagar Municipality submitted that the petitioner had earlier moved the jurisdictional Tahsildar who forwarded the petitioner's application to the Commissioner, Virudhunagar municipality. Citing the circular dated 18.07.2001 issued by the Director of Public Health and Preventive Medicine, Chennai-6, the municipality commissioner had also informed the Virudhunagar Tahsildar. The petitioner's request cannot be



W.P.(MD)No.15117 of 2024

complied with. The standing counsel's technical objection is that in view of the charge taken on 01.07.2024, it is not possible for the third respondent to revisit the issue.

4. I carefully considered the rival contentions and went through the materials on record. It is true that the third respondent having rejected the petitioner's request once cannot revisit the issue. But then, revisiting cannot be done on his own. However, the revised birth certificate cannot be issued by the third respondent pursuant to the order of this Court. The principle of *functus officio* will come into play. But the said principle is not applicable, when the corporation is directed to be done by the order of the jurisdictional Court. The issue raised in this writ petition is no longer *res integra*. Vide order dated 09.07.2024 in W.P.(MD)No.15082 of 2024, I had held as follows:-

“8. The question that arises for consideration is whether a different view could have been taken, if this communication had been brought to the notice of the Court. I am certain that it would not have made any difference. This is because both the orders of this Court rely on the principle of law laid down by the Hon'ble Supreme Court in the decision reported in **2021 SCC OnLine SC 415 (Jigya Yadav V. CBSE)**. It has been held therein that the right to control one's identity is one's fundamental right. Identity has several dimensions. One's name is a primary part of one's identity. It is always open to the individual concerned to change his name by following proper procedure. Vide order dated 25.01.2023 in W.P.(MD)No.28726 of 2022(**Gayathri Raveendran V. The Commissioner**), I had observed as



W.P(MD)No.15117 of 2024

follows:-

WEB COPY

“ 7. ... The issue can be approached from yet another angle. The petitioner's husband went to Mexico for his employment. The petitioner obviously wants to be with her husband. She wants to take her child along with her. If the petitioner's request is not accepted, certainly, the child's future prospects will be seriously affected. The petitioner's counsel states that Mexican Embassy has made it clear that unless the petitioner produces the corrected Birth Certificate issued by the respondents, it will not be able to issue Visa for the petitioner's child. The right to move abroad is a fundamental right. The petitioner's child is entitled to be with the petitioner. If the petitioner's request is rejected, her rights will be seriously infringed. Looking from this perspective, I am inclined to set aside the order impugned in this writ petition. It is accordingly set aside. The respondents are directed to issue correct Birth Certificate as prayed for by the petitioner. This shall be done as expeditiously as possible. ”

If the revised birth certificate is not issued, the petitioner's children may face impediments in their lives and career in future. It is for this reason, I am inclined to grant relief as prayed for.”

5. I am inclined to adopt the very same approach in this case also.

The third respondent is directed to make appropriate changes in the original birth register. The earlier name shall be rounded off and the new name shall be entered in the original register. But in the revised birth certificate to be issued, the new name alone shall be mentioned. This shall be done by the third respondent within five weeks from the date of receipt of a copy of this order.



W.P(MD)No.15117 of 2024

WEB COPY

6. The Writ Petition is allowed. No costs.

19.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
rmi

NOTE:Issue Order Copy on 24 .07.2024

To

- 1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Virudhunagar District.
- 2.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.



WEB COPY



W.P(MD)No.15117 of 2024

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.15117 of 2024

19.07.2024