



1

W.P.(MD)NO.15082 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15082 of 2024

A.Pandian

... Petitioner

Vs.

1. The Commissioner,
Karur Corporation,
Karur.

2. The Registrar,
(Births & Deaths),
Karur Corporation,
Karur.

3. The City Health Officer,
Karur Corporation,
Karur.

... 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 orders passed by the 3rd respondent in Na.Ka.No.2811/2024/H3 and Na.Ka.No.2812/2024/H3, dated 25.06.2024 and quash the same as illegal, arbitrary and consequently direct the 3rd respondent to correct the petitioner's daughters name as P.Abhi Yazhini and P.Abhi Yamini instead of P.Yazhini and P.Yamini in their Birth Certificates bearing Registration Nos.243/2006/02 and 242/2006/02 dated 24.02.2006.



For Petitioner : Mr.V.Balaji

For R-1 to R-3 : Mr.K.Balasubramani,
Special Government Pleader.

* * *

ORDER

Heard both sides.

2. The petitioner got married to Radhika and through the wedlock twins were born on 22.02.2006. The girl children were named P.Yazhini and P.Yamini. Their births were also duly registered with the second respondent. For numerological consideration, the petitioner effected name change to his children. P.Yazhini became P.Abhi Yazhini and P.Yamini became P.Abhi Yamini. The gazette notification was also duly effected. The petitioner thereafter approached the third respondent for correction in the Birth Certificate and issuance of revised Birth Certificates. The petitioner's request was rejected. Hence, this 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 called upon this Court to set aside the impugned order and grant relief as prayed for.

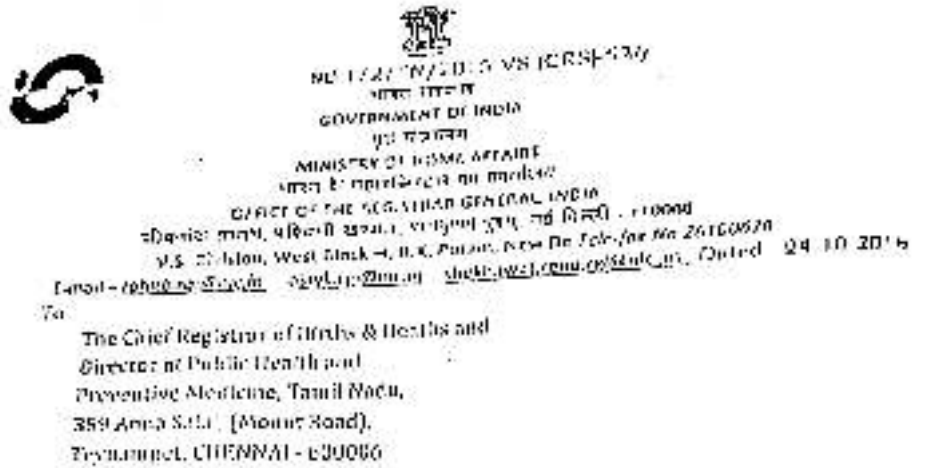
4. The learned Special Government Pleader appearing for Karur Corporation submitted that in the case laws relied on by the writ petitioner, there is no reference to the circular dated 24.10.2016 issued by the office of the Registrar General, India. He submitted that the office of the Registrar General, India, Ministry of Home Affairs, Government of India had issued circular bearing No.1/2/TN/2015 VS(CRS)-534 dated 24.10.2016 clearly stating that the birth record should reflect the entries given at the time of birth only. If at a later stage, name of a person is changed through Gazette notification or otherwise, it could not be treated as correction under Section 15 of the RBD Act as per the clarification given by the Ministry of Law. The stand of the respondents is that in view of the above, the impugned order has to be sustained. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.



6. The aforesaid communication issued by the Registrar

General, India, Government of India is extracted below:-



Subj: Name change in Gazette Notification- inclusion of changed name in birth and death Registration-regarding.

Sir,

Please refer to your office letter no. 71077/SBIII-1/SI/2016 dated 05-10-2016 vide which a petition of Shri C. Krishnan of Salem suggesting correction and inclusion of new name in the birth register as published in the Gazette Notification has been forwarded.

2. In connection with the queries raised by the applicant, the following facts are clarified:
1. The birth record reflects the entries given at the time of birth only. If at a later stage name of a person is changed through Gazette notification or otherwise, it could not be treated as correction under section 15 of the RBD Act as per the clarification given by the Ministry of Law.
 2. You may be aware that to facilitate the public for entering the proper name in birth record, a provision has been made under section 14 and Rule 10 of the Act for addition of name in birth record/ certificate up to 15 years from the date of registration (if child name is not written in the birth record).
 3. In respect of all old cases, a provision for insertion the name in birth record where the name has not been written has been extended up to 31-12-2019 in many States, which include TamilNadu also.
 4. To facilitate the public in making genuine changes in name in the birth record, this office has issued a circular No. 1/12/2014 VS CRS dated 30th June, 2015 which was



प्रत्येक जन्म व मृत्यु का पंजीकरण सुनिश्चित करें।
"Ensure Registration of Every Birth and Death"



Chapter - 42

WEB COPY

issued regarding correction and change in name (If applicant is not satisfied with the order, the copy of that order is available at this office website <http://www.mhc.tn.gov.in/judis>).

The decision regarding change / correction in name in the birth record should be taken by the Registrar of Births and Deaths under the provision in section 15 of the RBD Act and corresponding Rule 11 and the direction issued in this regard by this office and the Chief Registrar. You are requested to inform the applicant accordingly.

Yours faithfully,

Skolai Bhandari

Deputy Registrar General (LRS)



प्रत्येक जन्म एवम् मृत्यु का पंजीकरण सुनिश्चित करो!

"Ensure Registration of Every Birth and Death"



WEB COPY

7. It is true that in the order dated **18.01.2024** made in **W.P. (MD)No.15766 of 2023 (Muthupandian V. The Commissioner, Madurai Corporation, Madurai)** rendered by a learned Judge of this Court as well as in the order dated **25.01.2023** made in W.P.(MD)No. 28726 of 2022 (**Gayathri Raveendran V. The Commissioner**) rendered by me, this circular was not referred to.

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 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. Since the issue raised in this writ petition is squarely covered by the aforesaid orders, the impugned order is set aside. This writ petition stands allowed. The third respondent is directed to make appropriate correction as sought for by the petitioner in the original record. The revised and corrected birth certificate to be



issued by the third respondent will contain only the new names of the petitioner's children. In other words, while the original record and the register maintained by the respondents 2 and 3 will contain the changes by rounding off the original entries, the certificates will contain the revised entries alone. This shall be done by the third respondent within a period of four weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs.

09.07.2024

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

To:

1. The Commissioner,
Karur Corporation,
Karur.
2. The Registrar,
(Births & Deaths),
Karur Corporation,
Karur.
3. The City Health Officer,
Karur Corporation,
Karur.



WEB COPY



9

W.P.(MD)NO.15082 OF 2024

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.15082 of 2024

09.07.2024