



W.P(MD)No.15766 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.15766 of 2023

Muthupandian

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Registrar (Birth & Death),
Madurai Corporation,
Madurai.

3.The Welfare Officer,
Madurai Corporation,
Madurai.

... Respondents

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 pertaining the impugned Letter No.H5/03535/2022 dated 10.06.2023 passed by the 3rd respondent and quash the same consequently direct the 3rd respondent to correct the petitioner's sons'



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name as M.Ragesh and V.M.Loagesh instead of M.Thiruragesh and M.Thirulogesh in the birth certificates Registration Nos.581 and 582 dated 29.05.2010 and issued the same.

For Petitioner : Mr.M.Ramu

For Respondents : Mr.P.Anbu Nidhi,
Standing Counsel.

ORDER

This writ petition is filed for issuing a Writ of Certiorarified Mandamus, to call for the records pertaining the impugned Letter No.H5/03535/2022 dated 10.06.2023 passed by the 3rd respondent and quash the same consequently direct the 3rd respondent to correct the petitioner's sons' name as M.Ragesh and V.M.Loagesh instead of M.Thiruragesh and M.Thirulogesh in the birth certificates Registration Nos.581 and 582 dated 29.05.2010.

2.The case of the petitioner is that the petitioner's sons' original names are M.Thiruragesh and M.Thirulogesh. For numerology purpose,



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he changed their names as M.Ragesh and V.M.Loagesh and the same was published in the Tamil Nadu Government Gazette notification on 16.10.2019 and 22.01.2020 respectively. Thereafter, the petitioner approached the respondent for effecting changes in the birth certificates. The same was rejected. Thereafter, the petitioner sent a representation dated 06.02.2023 and since no action was taken on the said representation, the petitioner filed W.P.(MD)No.3400 of 2023. The said writ petition was disposed of by directing the respondents to consider the petitioner's representation. Pursuant to the said direction, the third respondent rejected the petitioner's request. Challenging the same, the present writ petition has been filed.

3.The learned counsel for the petitioner submitted that his sons names were changed and to that effect, publications were also made in the Tamil Nadu Government Gazette. However, the respondents are not issuing a fresh birth certificates for his sons. The petitioner's sons are school going students, if their names are not changed, their future will be affected. Hence, he prays this Court to set aside the impugned order and allow the writ petition.



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4.The learned Standing Counsel for the respondents submits that as per Section 15 of the Registration of Births and Deaths Act r/w. Rule 11 of the Registration of Birth and Deaths Rules, the respondents are not competent to make changes in the birth certificate. He further submitted that the Department of Public Health and Preventive Medicine vide notification dated 18.07.2001 stated that the applicant can use the original birth certificate and gazette notification for all future purposes. He pressed for dismissal of the writ petition.

5.Heard Mr.M.Ramu, learned counsel for the petitioner and Mr.P.Anbu Nidhi, learned standing counsel for the respondents.

6.The learned counsel for the petitioner draws the attention of this Court to the decision made in W.P.(MD)No.5759 of 2023, dated 08.06.2023. In the said decision, a learned Judge of this Court had relied on the judgment of the Allahabad High Court in ***Neutral Citation No.-2023:AHC:121065, dated 25.05.2023 in Writ -C Nos.3671 of 2022 and 14043 of 2023***. Paragraph Nos.24 to 29 of the judgment of the Hon'ble Allahabad High Court are as follows :



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"24. Kerala High Court in Kashish Gupta Vs. Central Board of Secondary Education and others, brought the right to a name within the scope of Article 19(1)(a) and Article 21 of the Constitution of India by holding:

“8. Name is something very personal to an individual. Name is an expression of one’s individuality, one’s identity and one’s uniqueness. Name is the manner in which an individual expresses himself to the world at large. It is the foundation on which he moves around in a civil society. In a democracy, free expression of one’s name in the manner he prefers is a facet of individual right. In Our Country, to have a name and to express the same in the manner he wishes, is certainly a part of right to freedom of speech and expression under Article 19 (1) (a) as well as a part of the right to liberty under Article 21 of the Constitution of India. State or its instrumentalities cannot stand in the way of use of any name preferred by an individual or for any change of name into one of his choice except to the extent prescribed under Article 19(2) or by a law which is just, fair and reasonable. Subject to the limited grounds of control and regulation of fraudulent or criminal activities or other valid causes, a bonafide claim for change of name in the records maintained by the Authorities ought to be allowed without hesitation.”



25. Similarly Delhi High Court in *Rayaan Chawla Vs. University of Delhi and another*¹¹ set its face against adopting a technical approach to the issue of change of name and expounded the law as under:

“14. Hence, the aforesaid judgment has clearly stated that to have a name and to express the same in the manner he wishes, is a part of the right to freedom of speech and expression under Article 19(1) (a) as well as right to liberty under Article 21 of the Constitution of India. It cannot be denied that the right to change a name is a protected right and the petitioner would normally be not denied the said right on technical issues.”

26. The Supreme Court in *Jigya Yadav Vs. CBSE*¹² , held that “name is an intrinsic element of identity”. The nexus of name and identity, and the freedom to express one’s identity in the manner of one’s preference was thus expounded in *Jigya Yadav (Supra)*:

“125. Identity, therefore, is an amalgam of various internal and external including acquired characteristics of an individual and name can be regarded as one of the foremost indicators of identity. And therefore, an individual must be in complete control of her name and law must enable her to retain as well as to exercise such control freely “for all times”. Such control would inevitably include the aspiration of an individual to be recognised by a different name for a just cause. Article 19(1)(a) of the Constitution provides for a



guaranteed right to freedom of speech and expression. In light of Navtej Singh Johar [Navtej Singh Johar v. Union of India, (2018) 10 SCC 1 : (2019) 1 SCC (Cri) 1] , this freedom would include the freedom to lawfully express one's identity in the manner of their liking. In other words, expression of identity is a protected element of freedom of expression under the Constitution.

126. Having recognised the existence of this right, the essential question pertains to the rights that flow due to the change of name. The question becomes vital because identity, as stated above, is a combination of diverse set of elements. Navtej Singh Johar [Navtej Singh Johar v. Union of India, (2018) 10 SCC 1 : (2019) 1 SCC (Cri) 1] dealt with “natural identity” and here we are dealing with name, which can only be perceived as an “acquired identity”. Therefore, the precise scope of right and extent of restrictions could only be determined upon deeper examination.

127. To begin with, it is important to explain what we understand by this right to change of name as a constituent element of freedom of expression of identity. Any change in identity of an individual has to go through multiple steps and it cannot be regarded as complete without proper fulfilment of those steps. An individual may self-identify oneself with any title or epithet at any point of time. But the change of identity would not be regarded as formally or legally complete until and unless the State and its agencies take note thereof in their records. Afterall, in social sphere, an individual is not only recognised by how an individual identifies oneself but also by how his/her official records records introduce the person by his/her name and other relevant particulars.”



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27. *Bhatia, J. in Rashmi Srivastava Vs. State of U.P. and another*¹³ reaffirmed the right to change the name as a facet of the fundamental right guaranteed under Article 19(1)(a) of the Constitution of India.

28. *The United Nations Human Rights Committee in Coeriel and Aurik v. The Netherlands*¹⁴ acknowledged that name is an indispensable component of a person's identity and it falls within the realm of right to privacy by holding thus:

“10.2....The Committee is of the view that a person's surname constitutes an important component of one's identity and that the protection against arbitrary or unlawful interference with one's privacy includes the protection against arbitrary or unlawful interference with the right to choose and change one's own name.....The question arises whether the refusal of the authorities to recognize a change of surname is also beyond the threshold of permissible interference within the meaning of article 17.

10.5. In the present case, the authors' request for recognition of the change of their first names to Hindu names in order to pursue their religious studies had been granted in 1986. The State party based its refusal of the request also to change their surnames on the grounds that the authors had not shown that the changes



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sought were essential to pursue their studies, that the names had religious connotations and that they were not 'Dutch sounding'. The Committee finds the grounds for so limiting the authors' rights under article 17 not to be reasonable. In the circumstances of the instant case the refusal of the authors' request was therefore arbitrary within the meaning of article 17, paragraph 1, of the Covenant."

29. A similar view was taken by the United Nations Human Rights Committee in Raihman v. Latvia¹⁵, and by the Court of Justice of the European Community in Standesamt Stadt Niebüll."

7. Respectfully following the same, the impugned order is aside and the writ petition is allowed. The second respondent is directed to issue fresh birth certificates as sought for by the writ petitioner within a period of sixteen weeks from the date of receipt of a copy of this order. No costs.

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NCC : Yes/No
Index : Yes / No
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