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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 14078/2024

OM PRAKASH SHARMA

.....Petitioner

Through: Mr. Amit Kumar, Advocate.

versus

DEPUTY COMMISIONER, SOUTH ZONE,
MCD AND ORS

.....Respondents

Through: Mr. Vishal Raj Sehijpal, SC for
MCD with Ms. Priyanka Harda.
Advocate for R-1 to 3.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti, Advocates
for R-4 with Mr. Ajaysachdeva
(Tehsildar).

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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27.11.2024

1. This writ petition arises in unfortunate circumstances of the petitioner's own making. The petitioner seeks cancellation of a birth certificate of his son Manan Sharma, issued by the respondent – Municipal Corporation of Delhi ["MCD"], on the ground that it reflects an incorrect date of birth of the child.

2. The petitioner states in the writ petition, that his son Manan Sharma was born on 16.12.2011 in Gujarmal Modi Hospital & Research Centre, Mandir Marg, Saket, New Delhi. The birth was registered with the MCD on 28.12.2011. A birth certificate [bearing no.0111-005030901]



showing the aforesaid date and place of birth, has been annexed to the writ petition at Annexure P-1.

3. It is, however, the admitted position that the petitioner thereafter applied for a second birth certificate of his son, which was issued by the MCD on 18.01.2016, pursuant to an order of the Sub-Divisional Magistrate, Hauz Khas [“SDM”]. The contention of the petitioner is that the second application was made because the original birth certificate was lost. The difficulty is that in the second birth certificate [bearing no.0116-006776175, Annexure P-2 to the writ petition], a wrong date of birth has been stated, as 12.09.2012.

4. Upon realising the discrepancy between the two birth certificates, the petitioner first applied for cancellation of the original birth certificate issued on 28.12.2011. However, in the writ petition, it is clearly stated that the correct date of birth is the one reflected in the original birth certificate. The relief sought is therefore, for cancellation of the second birth certificate showing the child’s date of birth as 12.09.2012.

5. By an order dated 07.10.2024, while issuing notice in this writ petition, the SDM was called upon to produce the record relating to the application for the second birth certificate. The record has been produced, and shows that the second birth certificate was issued pursuant to an order of the SDM on the petitioner’s own application. In the application made by the petitioner, the date of birth of the child was declared as 12.09.2012. The petitioner’s residential address was also wrongly given as the address where the birth took place. The petitioner also signed a declaration with regard to the truth of the contents of the application.

6. In these circumstances, no fault can be found with the statutory



authorities for acting upon the said declaration and issuing the second birth certificate. However, the factual situation now accepted by the petitioner is that the details given in the second birth certificate are incorrect.

7. Despite the fact that this situation is a direct consequence of the petitioner's own acts, I am of the view that the relief ought to be granted. The child is a minor, and cannot be blamed. He ought not to be burdened with the consequences of having two conflicting records with different dates of birth.

8. The SDM and MCD are therefore directed to cancel and revoke the birth certificate dated 18.01.2016 [showing the child's date of birth as 12.09.2012], and the order pursuant to which it was issued.

9. As noted above, this situation has arisen only because the petitioner was reckless in making the application for the second birth certificate with the SDM. This has led to unnecessary expenditure of resources, including in this writ petition. The petitioner is therefore directed to deposit costs of Rs.15,000/- with the Delhi High Court Legal Services Committee, with one week from today. Necessary action will be taken by the SDM and MCD upon the petitioner furnishing proof of deposit of costs.

10. The writ petition is disposed of, in these terms.

PRATEEK JALAN, J

NOVEMBER 27, 2024

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