



W.P.No.7348 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7348 of 2024

P.Aiswarya

.. Petitioner

Vs.

1. The Deputy Collector (Revenue),
Mahe – 673310,
The Union Territory of Puducherry.

2. The Deputy Tahsildar (Revenue),
Sub Taluk Office, Mahe - 673310.

3. The Director,
Health and Family Welfare Department,
Puducherry-605001.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in No.293/DCRM/A-1/2021, dated 06.03.2024 confirming the order passed by the second respondent in No.262/STOM/T3/2024, dated 02.03.2024 and quash the said orders and direct the respondents to issue Nativity/Residence Certificate to the petitioner.

For Petitioner

: Mr. P.Rajendran

For Respondents

: Mr. Ramasamy Meyyappan

Government Advocate (Puducherry)



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ORDER

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2. The learned Counsel appearing for the petitioner would submit that the third respondent, the Director of Health and Family Welfare, Puducherry, issued notification on 27.09.2023 inviting applications from the eligible candidates for recruitment to the post of Nursing Officer. The petitioner is fully qualified for appointment to the post of Nursing Officer in the Directorate of Health and Family Welfare, Government of Puducherry and hence, she applied for the said post and her name has also been included in the provisional selection list dated 24.02.2024 under Most Backward Class (MBC) category against Sl. No.2. Thereafter, vide notification dated 26.02.2024 the Director of Health and Family Welfare, Puducherry had instructed the provisionally selected candidates to report at his office from 26.02.2024 to 01.03.2024 along with original certificates submitted along with their application forms and the acknowledgement card and further



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directed them to ensure that their Caste/Residence/Nativity Certificates were obtained within one year prior to the date of notification and their employment card is currently renewed/active. Immediately thereafter, the petitioner made application for issuance of Residence/Nativity Certificate before the second respondent. However, the second respondent passed a rejection order in No.262/STOM/T3/2024, dated 02.03.2024. Aggrieved by the said rejection order of the second respondent, the petitioner had preferred an appeal before the first respondent and the first respondent had dismissed the appeal confirming the order passed by the second respondent. Challenging the said order of the first and second respondents, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly, the petitioner was born and brought up at Mahe and her permanent address is at Mahe. She studied at the Government Higher Secondary School, Mahe. The documentary evidence submitted by her viz., her Higher Secondary Examination Certificate, Aadhaar Card, Voter ID, Ration Card, Employment Exchange Registration Card, Passport, Marriage Certificate etc., were all obtained from the authorities at Mahe. He would further submit that her marriage took place on 20.03.2021 and she was



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residing at Mahe region for 26 years till her marriage. After her marriage, the petitioner went to Dubai with her husband and worked as Nurse at Clinica Sabha LLC from 31.03.2022 to 11.05.2023. Thereafter, she returned to Mahe on account of marital problem with her husband and she had filed O.P.No.2 of 2024 before the Family Court/Sub Court, Mahe, for dissolution of marriage and she is residing with her parents at Mahe and thereafter, she made application to participate in the recruitment process for the post of Nursing Officer which was rejected.

4. The learned counsel appearing for the petitioner would further submit that for the past 26 years with break up period of one year, the petitioner has been continuously residing at Mahe region and no single document was relied upon by the respondents to negate the claim made by the petitioner and in the absence of any single document showing that the petitioner is the resident of Kerala State, the residence of the petitioner at Mahe cannot be rejected by the authorities. Accordingly, he prayed for allowing this Writ Petition.

5. In support of his contention, the learned counsel appearing for the petitioner relied on the order passed by this Court in W.P.1725 of 2017,



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dated 15.11.2021 wherein this Court has observed as follows:

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“9. For the purpose of issuing Nativity/Residence Certificate, there are two aspects need to be considered, viz., i) Birth Certificate and ii) applicant should have resided for the past 5 years continuously in Puducherry region. In fact, taking into consideration that no comprehensive instructions have been issued for determination of the status of nativity in respect of any application whether by birth or by continuous residence, the Government of Puducherry has issued G.O.Ms.No.48, dated 12.12.2002, which reads as under:

Revenue Department

G.O.Ms.No.48

Pondicherry 12.12.2002

Ref: (i) Circular No.13(No.G1417/9/70)
dt 10.09.1970 of the Revenue Department
(ii) Circular No.16 dt 22.10.1970 of the Revenue
Department, Pondicherry

The Revenue Department has been issuing certificates pertaining to “Nativity” through the Deputy Tahsildar/Tahsildars of Sub-Taluk/Taluk Office based on certain instructions issued for the determination of the nativity purely for educational purposes vide circular 2 nd cited. However, no comprehensive instructions have been issued in this regard for determination of nativity by birth or continuous residence.

Whereas the Government has been considering issue of comprehensive instructions in this regard for compliance by the certificate issuing authorities of the Revenue Department, the following criteria is now prescribed for determining the status of nativity in respect of any applicant whether by birth or by continuous residence:



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a) Nativity by birth : The applicant should have been in the Union Territory of Pondicherry and should have been ordinarily residing within the Union Territory prior to the date of application. In order to satisfy the criterion of “Ordinarily resident”, the person should have been staying either by himself or with his family within the Union Territory of Pondicherry continuously with a clear intention of residing there permanently, but for temporary absence from such place of residence for reasons job or education etc., As long as the applicant is able to establish satisfactorily his intention to return to his place of residence on the conclusion of such temporary absence, he may be considered to be a person ordinarily residing in the Union Territory.

(b)Nativity by continuous residence: The applicant should have been residing continuously for five years in the Union Territory prior to the date of the application.

The above certificates pertaining to nativity may be issued in the prescribed format as enclosed. However, pre-printed formats as contained in the application forms issued by the educational or financial institutions/agencies etc can also be filled up and certified by the certificate issuing authorities in respect of nativity by following the criteria prescribed by such institutions/agencies or in the absence of any such prescribed criteria by following the criteria specified above by this Department. The instructions as above should be adhered to strictly while issuing Nativity Certificate in future.

10.The above said G.O. clearly speaks about nativity by birth wherein, an applicant whoever is born in Union Territory of Pondicherry and ordinarily residing between the period prior to the date of application, is entitled for nativity certificate. The said G.O also states that the temporary absence of any person will not be a bar when the said person has got clear intention of residing there permanently, for the purpose of obtaining nativity certificate. In order to satisfy criteria of "ordinarily resident" so as to claim



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Nativity by birth, the applicant should have been staying either by himself or with his family within the Union Territory of Pondicherry continuously with a clear intention of residing there permanently, but for temporary absences from such place of residence for reasons of job or education, etc. Therefore, as long as the petitioner is able to satisfy that his intention to return and reside at his place within the Union Territory of Pondicherry on conclusion of his job, there is no impediment for the respondents to consider his claim.”

6. *Per contra*, the learned Additional Government Pleader appearing for the respondents would submit that the actual and physical residence of the applicant is essential and mere possession of evidence like Ration Card, EPIC Card or previous certificates, etc., are not the sole criteria for issuance of the Residence/Nativity Certificate. At the same time, such evidences should not be totally ignored. However, the secrete enquiry revealed that the petitioner was born at Kerala State and resided with her parents at Mahe region and subsequently, she married one Arun Thuruthikkuniyil, who is a resident of Perambra, Kozhikode District thus, she has not been continuously residing at Mahe region. Therefore, her request for issuance of Residence/Nativity Certificate was rightly rejected by the authorities and the orders passed by the authorities are proper which need not be interfered with. Accordingly, the learned Additional Government Pleader appearing for the respondents prayed for dismissal of this Writ Petition.



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7. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

8. The facts of the present case are not in dispute. Admittedly, the petitioner was born at Mahe region and she had completed her entire studies including school education and higher secondary education at Mahe. She has also produced Aadhaar Card, Voter ID, Ration Card, Employment Exchange Registration Card, Passport, Marriage Certificate etc., All those certificates were issued by the authorities of Union Territory of Puducherry. The respondents have not produced a single document to prove that after the marriage, the petitioner was residing at Kerala along with her husband. The petitioner was temporarily absent in Mahe for a period of one year from 31.03.2022 to 11.05.2023 as she went to Dubai along with her husband. Such absence cannot be relied by the respondent to deny the request of the petitioner for issuance of Residence/Nativity Certificate. The guidelines issued in the Government Order issued by the Pondicherry Government in G.O.Ms.No.48, Revenue Department, dated 12.12.2002 makes it clear that temporary absence can be ignored.



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9. In view of the above discussion, the Writ Petition is allowed and

the orders passed by the first respondent in No.293/DCRM/A-1/2021, dated 06.03.2024 confirming the order passed by the second respondent in No.262/STOM/T3/2024, dated 02.03.2024 is set aside and the second respondent is directed to issue Nativity/Residence Certificate to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

No costs.

07.11.2025

SRM

Index :Yes/No
Speaking/Non-speaking order
Internet :Yes
Neutral Citation :Yes/No

To

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The Union Territory of Puducherry.
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M.DHANDAPANI,J.

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