IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.1128 of 2025

Ms.Vaishnavi Palanivel ...Petitioner

Vs.

1.The District Collector
Chennai District,
Chennai

2.The Tahsildhar
Alandur Taluk, Chennai District,
Chennai ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 06.11.2024 passed in Na.Ka.A2/1898/2024 by the 2nd respondent rejecting the grant of nativity certificate to the petitioner on the file of the 2nd respondent herein and to quash the same and direct the 2nd respondent to grant the nativity certificate certifying that the petitioner hails from Alandur Taluk, Chennai to the petitioner.

For Petitioner : Mr.K.R.Ramesh Kumar
For respondents :Mr.S.Balamurugan for R1 & R2
Government Advocate

O R D E R

The writ petition is filed challenging the order passed by the 2nd respondent rejecting the application of the petitioner seeking issuance of Nativity Certificate on the ground that she was born and brought up at Abu Dhabi, a Middle East Country.

2. It is the case of the petitioner that her father Palanivel Ramaswamy is an Indian Citizen holding Indian passport bearing No. N5938096. The petitioner's mother Santhi Palanivel is also an Indian citizen holding Indian Passport bearing No.V7771097. It is also stated that the names of the petitioner's parents are reflected in the family card issued by the Government of Tamil Nadu in the name of their grand parents. The petitioner's parents got married on 09.09.2000 and by virtue of their employment, they got shifted to Abu Dhabi in the year 2005 and that date onwards they had been residing at Abu Dhabi till date. The petitioner was born at Abu Dhabi on 12.07.2008 and her birth was entered in the Indian Embassy at Abu Dhabi on 29.10.2019. The petitioner is a holder of Indian Passport bearing Passport No.V2873961. The

copy of the Aadhar card issued to the petitioner is also produced in the typed set of papers. The petitioner is pursuing her 11^{th} class in a school at Abu Dhabi and she intends to undertake National Eligibility cum Entrance Test, UG 2026. In order to seek admission under Government quota in the State of Tamil Nadu, the petitioner has been required to produce a nativity certificate. Hence, the petitioner applied for issue of nativity certificate and the same has been rejected by the respondent by the impugned order. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel for the petitioner submits that both the parents of the petitioner are natives of Tamil Nadu and they were born in Tamil Nadu. Though they are permanent residents of Tamil Nadu, by virtue of their employment, temporarily they got shifted to Abu Dhabi and during their stay at Abu Dhabi, the petitioner was born. Merely because the parents of the petitioner got shifted to Abu Dhabi temporarily in connection with their employment, the petitioner's nativity will not get changed. Therefore, the impugned order passed by the 2^{nd} respondent rejecting the request of the petitioner for issue of nativity certificate is erroneous. In support of his

contentions, the learned counsel for the petitioner relied on the judgment of this Court in the case of ***Varsha Parappa Totagi Vs The District Collector, Chennai District*** in ***W.P.No.15393 of 2020***. He also relied on the judgment passed in the case of ***Shwetha Shuresh Vs The Tahsildar, Velachery in W.P.No.23836 of 2022.***

4. The learned Government Advocate for the respondents 1 and 2, by taking this Court to the counter affidavit filed by the 2nd respondent, submitted that petitioner was not born in Tamil Nadu and she was born in Abu Dhabi and she has not produced any document to show either petitioner or her parents continuously resided at Tamil Nadu for a period of five years. The learned Government Advocate also relied on G.O.Ms.No.2388, Revenue Department dated 27.11.1990 and submitted that as per the guidelines issued in the G.O cited above, the 2nd respondent correctly rejected the request for issuance of nativity certificate.

5. The issue involved in this writ petition regarding the issuance of nativity certificate to the children born in foreign country to a parents who are natives of Tamil Nadu and temporarily residing in foreign country due to their employment was considered by this Court in the above mentioned decisions.

6. The relevant observations of this Court in the above mentioned **Varsha Parappa Totagi** case reads as follows:-

> *11. When the petitioner has satisfied the other criteria, the continuous education of five years preceding the application, cannot be a ground to reject the same. It is not the will or wish of the petitioner to go and study outside the State. It was only due to the avocation of her father, she had to be away from Tamil Nadu. If this rule is to be strictly applied, the wards of the parents, who are born, brought up and living for generations together in Tamil Nadu, if he/she on account of his/her jobs had to move to various States, will deprive the son or daughter of the soil, their nativity. If the parents are staying outside Tamil Nadu on account of their avocation, it does not mean that they disown their native State. Perhaps that is the reason why in the*

guidelines in G.O. Ms. No.2388, in clause (7), it is mentioned as follows:

"(7) The birth place of the parent, place of residence of the parent or grand father, permanent assets, mother tongue, place of education, place of marriage of the applicant/parents, the period of stay in and outside Tamil Nadu may also be taken into consideration before issuing nativity certificate."

The above said clause itself is only to enable those parents, who have to stay outside the State for various reasons to be considered as a native of Tamil Nadu.

12. In this case, the birth place of one of the parents has been given as Tamil Nadu. Mother is having a permanent residence in Chennai. She also has a permanent asset and her mother tongue is admittedly Tamil, the mother had studied in Tamil Nadu and her marriage was solemnised in Chennai and they stayed here till the petitioner was 6 or 7 years old. If the said criteria are considered by the authorities, the petitioner has to be considered only as a native of Tamil Nadu and she is entitled to a Nativity Certificate. When the guidelines issued by *the government are so complete and elaborate, the second respondent ought to have considered the same in its letter and spirit.*

13. The Nativity Certificate is mandatory for applying for medical seat, only in order to curtail the seats that should go to the residents of the State and not to be hijacked by other State students. That is the reason, the authorities, while issuing the Nativity Certificate, have to consider such aspects in mind and consider the applications. In this case, when the permanent residence of the petitioner and her parents is in Chennai and it was only for a temporary period, on account of his job he has gone to Dubai, if the petitioner is denied Nativity Certificate, it is not known, which other State in India, would accept them as their native and issue a Nativity Certificate. If the Nativity Certificate is not produced, such student may have to claim only those seats earmarked for "All India quota" and not under any other category, based on communal reservation etc. The Policy of the Government is only to disentitle the candidates belonging to other States or in other words, to give priority to the own State candidates i.e. Tamil Nadu quota"

7. In ***Shwetha Shuresh Vs The Tahsildar, Velachery*** case cited supra, this Court, after extracting the various guidelines issued under G.O.Ms.No.2388 dated 27.11.1990 observed as follows:-

> *7. It is pertinent to note that the Government passed G.O.Ms.No.2388, Revenue Department, dated 27.11.1990, framing the following guidelines for issuance of Nativity Certificates :*
>
> *"i) The parents/guardians of the applicant/students or the applicants themselves should have permanently resided continuously for period of five years in Tami Nadu.*
>
> *ii) Permanently residing for a period of five years should be supported by documentary evidence.*
>
> *iii) The family ration card, Electoral Roll, Census list, if taken recently, documents like sale deed, tax receipt etc. relating to the property owned by either of the parents or by the applicant may be verified.*
>
> *iv) The Transfer Certificate issued by the School authorities where the applicant had studied last may be verified to know whether he was in the state for five years.*
>
> *v) Enquiry in the Village/place of residence of*

the neighbours/Village Administrative Officers regarding continuous residing.

vi) To ensure that wrong or incorrect address had not been furnished to obtain the certificates.

vii) The birth place of the parent, place of residence of the parent/father, permanent asset, mother tongue, place of education, place of marriage of the applicant/parents, the period of stay in and outside Tamilnadu can also be considered before issuing certificate."

8. As seen from the aforementioned guidelines, either the applicant or her parents/guardians should have permanently resided continuously for a period of five years in Tamil Nadu. In the case on hand, the petitioner is an Indian Citizen, eventhough, she was born in Bahrain. Further in all Gulf Countries, including Bahrain, the question of getting citizenship of that nationality by birth is not possible. The petitioner was born in Bahrain when her parents were employed there. Her parents are also Indian Citizens and they are permanently residing in Chennai, Tamilnadu. The petitioner has also *produced family card issued by Tamil Nadu Civil Supplies Corporation in respect of her grand parents and also Aadhar card of the petitioner's father and petitioner's grand-parents issued by Government of India.*

9. The said documents clearly establish that the petitioner's parents and her grand-parents are permanent residents of Tamil Nadu. There is also no possibility for the petitioner to obtain a nativity certificate in Bahrain as she is not a citizen of that country. If the contention of the respondent that the petitioner is not entitled for a nativity certificate on the ground that she was born in Bahrain is accepted, the petitioner can neither approach Bahrain authorities nor can she approach the Indian authorities for nativity certificate which will place her as a person having no domicile which will deprive the petitioner's fundamental right to have a place of domicile. Therefore, only place where she can seek for nativity certificate is India, the country to which she belongs. Therefore, the contention of the respondent in their counter affidavit is irrational and illogical. G.O.Ms.No.2388 dated 27.11.1990 issued *by the Revenue Department also makes it clear that if the petitioner's parents have permanently resided continuously for a period of five years in Tamil Nadu, the petitioner is entitled for nativity certificate".*

8. In the case on hand, the petitioner's parents are natives of Tamil Nadu and they were born in Tamil Nadu. The birth certificate of petitioner's mother namely Santhi Palanivel dated 08.08.1981 is produced in the typed set of papers. A perusal of the Indian Passport issued to the petitioner's father Palanivel would indicate that he was born in Madras, Tamil Nadu. Therefore, it is clear that both the parents of the petitioner are natives of Tamil Nadu and due to their employment, they temporarily got shifted to Abu Dhabi. During their stay in connection with their employment, the petitioner was born in Abu Dhabi and she also holds Indian Passport. In these circumstances, the law laid down in the above mentioned case laws is squarely applicable to the facts of the present case. Hence, the petitioner is entitled to get nativity certificate..

9. Accordingly, the impugned order passed by the 2nd respondent is set aside and the 2nd respondent is directed to issue nativity certificate to the petitioner within a period of four weeks from the date of receipt of copy of this order.

10. In view of the above observations, this writ petition stands allowed. No costs.

27.01.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

1.The District Collector
Chennai District,
Chennai

2.The Tahsildhar
Alandur Taluk, Chennai District,
Chennai

S.SOUNTHAR, J.

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