
(2016) 08 KL CK 0023
In the High Court Of Kerala
Case No : W.P.(C). No. 21486 of 2016

Abdul Rahiman

APPELLANT

Vs

Registrar of Births

RESPONDENT

Date of Decision : 11-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Registration of Births and Deaths Act, 1969 — Section 15

Citation : (2016) 4 ILRKerala 560 : (2016) 3 KLT 988

Hon'ble Judges : Mr. K. Vinod Chandran, J.

Bench : Single Bench

Advocate : Reji George & Binoy Davis, Advocates, for the Petitioner; Sr. Government Pleader (Renil Anto), for the Respondent

Final Decision : Dismissed

Judgement

1. The petitioner is before this Court, challenging Ext. PIO, by which the correction in the date of birth of his daughter, was declined by the respondent, in the Register of Births and Deaths maintained in his office.
2. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondent.
3. The petitioner had declared his daughter's date of birth as 14.05.1987 in the Passport, before the State Secondary School Examination Board of the Government of Kerala, and the authorities issuing Aadhar Card and Election Identity Card, as is indicated at Exts.P1 to P4. However the register maintained by the respondent indicated the date of birth of the petitioner's daughter as 14.01.1987 to 14.05.1987. The petitioner approached the respondent with Ext.P6 application, for correction of the date of birth recorded as 14.01.1987. The application for correction was rejected as per Ext.P10, which is challenged herein.
4. The petitioner relies on two judgments of the Division Bench of this Court in

The Registrar of Births and Deaths v. Thomas Jacob (2011 (3) KLT 461) and (Chalakkudi Municipality v. Malavika- 2009 (4) KLT 714). In Thomas Jacob (supra) the Division Bench noticed the provisions, which permitted correction of date of birth in the Registers, being Section 15 of the Registration of Births & Deaths Act, 1969 and Rule 11 of the Kerala Registration of Births & Deaths Rules, 1999. Section 15 provides for correction or cancellation of entry in the Register of Births and Deaths. The requirement is only that the correction sought for, be proved to the satisfaction of the Registrar, subject to such Rules as made by the State Government. Rule 11 (2) provides that on assertion of any entry in the Register of Births and Deaths to be erroneous, the Registrar can correct the entry in the manner prescribed under Section 15 upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case. The Division Bench relied on a Baptism Certificate, the SSLC Book, the Passport issued to the petitioner and the declaration made by the father and mother in that case, to come to a conclusion that the correction could then be made by the Registrar.

5. Malavika (supra) is not on similar facts and dealt with correction of name of the father in the birth certificate. All the same, it declares that, the emphasis as seen from the substantive provision in the Act is on the satisfaction of the Registrar; when correction is sought for in the Registers.

6. In the present case, the claim is that the date of birth recorded as 14.01.1987 has to be changed and now recorded as 14/05/1987, as declared by the petitioner's parents, in a number of Certificates referred to in paragraph 3 of this judgment.

7. The contention raised by the learned Counsel appearing for the Municipality is that there is substantial distinction in so far as the facts in Thomas Jacob (supra). In Thomas Jacob (supra), the request was to make a correction to an anterior date, that too by only seven days and in the present case the request is to make the correction to a posterior date. The said distinction is specifically urged, since the Register of the Municipality indicates that the birth of the petitioner was recorded on intimation from the Hospital.

8. It is submitted by the learned Counsel for the respondent that though there is no address shown in the register, the fact remains that the name of parents of the named child, entered in the Register as revealed from the intimation of the hospital and recorded in the Register is admitted by the petitioner too. Though the records are not available in the Hospital, there is no reason to upset the factual recording of a birth as intimated from a Hospital in the present case, is the argument.

9. As rightly submitted by the learned Counsel appearing for the Municipality, the correction if sought for to a anterior date is possible, since after birth, the registration of such birth would not have been carried out in time. When it is done after a period of time, at times extending beyond the limitation provided in

the enactment, then there is a possibility that the person, who reports the birth on a date, which is later to the actual date of birth, reports the death having occurred on a date proximate to the date on which such report is made. If the birth actually occurred on a posterior date, it is quite possible that the person who reports the birth gives an anterior date to save limitation or for any other reason. But a report of birth made on a particular date cannot be later shifted to an anterior date; since the date on which the report was made obviously is after the factum of birth having occurred.

10. In the present case, the prayer is quite the opposite and seeks for correction of date in the Register to a date later to that actually recorded. The simple logic applied to decline such prayer is that without the birth no report or intimation would have been made. Herein, the birth has been recorded on intimation from the Hospital and there could be no ground set up and taken that it was on a mistake, since the birth actually was reported to have occurred on 14/01/1987 and registered on 15.01.1987 itself. The mere fact that the petitioners parents had declared a later date cannot erase the factum of such birth having occurred on a posterior date.

11. Even Thomas Jacob (*supra*) declared that a correction could be made only when there is a error discernible in the recording of the date of birth and there should be cogent material available for the Registrar to be satisfied as to the error having occurred. Only then could the correction be effected. It is also pertinent that there, the correction sought was to an earlier date, than that recorded in the Register. The correction to a later date cannot be permitted, since there could be no presumption that the birth was intimated, in anticipation. This is more so since the Register is said to be maintained with pages numbered serially and the births registered, being entered in the Register chronologically, on the consecutive dates; which dispel any allegation of an error having been committed by the Registrar as to the date recorded.

12. This Court cannot issue a direction in the teeth of the registration of birth having been recorded as 14.01.1987; that too on intimation from the Hospital. The mere fact of a wrong declaration having been made in the later life of the child cannot result in upsetting the factual aspects. In that event, the remedy available is to seek correction of the subsequent declarations made. In such circumstances the prayer of the petitioner cannot be considered. However, if the petitioner is able to prove that the birth reported was not of the petitioner, then probably the petitioner could take up the matter before the Municipality. If otherwise, the petitioner could also seek for correction of date of birth in the passport, Secondary School Leaving Certificate and the other documents as per procedure prescribed. Leaving open such remedy, the Writ Petition would stand dismissed. No costs.