
(2008) 05 GUJ CK 0048

In the Gujarat High Court

Case No : Special Civil Application No. 4836 of 2008

Kalaben Mohanbhai Patel

APPELLANT

Vs

Talati Cum Mantri and Others

RESPONDENT

Date of Decision : 15-05-2008

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2008) 05 GUJ CK 0048

Hon'ble Judges : C.K. Buch, J

Bench : Single Bench

Advocate : S.P. Majmudar and Vimal A. Purohit, for the Appellant; Roma I. Fidelis, for Respondent 1 and Satyam Chhaya, for Respondent 3, for the Respondent

Final Decision : Allowed

Judgement

C.K. Buch, J.—Rule, Mr.Satyam Chhaya, Assistant Government Pleader, waives service of notice of rule on behalf of respondent-State.

2. Invoking jurisdiction of this Court under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for issuance of appropriate, writ order or direction mainly in terms of para 14(A) and 14(B) of the petition. For the sake of convenience, the Court would like to reproduce the relevant reliefs prayed in Sub paras A and B of Para 14. Rest of the relevant paras are ancillary. The contents of the application are supported by independent documents i.e. passport of the petitioner and Identity Card issued by Election Commission. Identity Card issued clearly suggests that she is legally wedded wife of Patel Mohanbhai Ranchhodbhai Patel. One order has been passed by this Court in the similar type of petition preferred by the husband of the petitioner. She has to appear in an interview so that she can obtain VISA. This is an instruction received by learned Counsel appearing for the petitioner.

3. The Talati-cum-Mantri of Village Panchayat of village Shiyawada (Gram

Panchayat) of Taluka, Dholka was approached by the petitioner vide application dated 8th December, 2007 but considering the time gap between the date of birth and the application, her application was not entertained.

4. As held in more than one identical matters, this Court has held that the Court can issue appropriate direction to the concerned authority so as to correct the date of birth and other details of the Register maintained for the purpose. According to the petitioner, her correct name is Kalaben Mohanbhai Patel and not Jivu. She was born as daughter of Manubhai Harjibhai. Her date of birth is 2nd June, 1954 and the same is mentioned as 2nd November, 1955 in the Birth Register.

5. This Court in case of Prakash Jaikishan Sajanani v. Ahmedabad Municipal Corpn., decided in Special Civil Application No. 370 of 2008 dated 22/01/2008 has observed that the authorities have power to correct the entry in the date of birth if the authority is otherwise satisfied about the proof to be brought by the applicant.

6. This Court has considered the say of Mr. Chhaya, learned A.G.P., as well as the observations made by this Court (Coram: Akshay H. Mehta, J.) in Special Civil Application No. 18273 of 2007 dated 24/07/2007 and would like to reproduce the relevant paragraph as under:

3.1. As against that, Mr. Neeraj Soni, Ld. AGP has tried to support the decision of respondent No. 2.

3.2. Section 15 of the Act reads as under:

Section 15: Correction or cancellation of entry in the register of births and deaths.

If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.

Rule 11 of the Rules is required to be reproduced verbatim and it is as under:

Rule 11 : Correction or cancellation of entry in the register of births and deaths:

If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him and if the register is in his possession, the Registrar shall inquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or canceling the entry) as provided in Section 15 of the Act and shall send an extract of the entry showing the error and how it has been corrected to the District Registrar of Births and Deaths.

In the case referred to in Sub rule (1) if the register is not in the possession the Registrar, he/she shall make a report to the District Registrar of Births and Deaths and call for the relevant register and after inquiring into the matter, if he is satisfied that any such error has been made, make the necessary correction.

Any such correction as mentioned in Sub rule 2 shall be countersigned by the District Registrar of Births and Deaths when the register is received from the Registrar.

If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed u/s 15 of the Act 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.

Notwithstanding anything contained in Sub-rule (1) and Sub-rule (4) the Registrar shall make report of any correction of the kind referred to therein giving necessary details to the District Registrar of Births and Deaths.

If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been made fraudulently or improperly, he shall make a report giving necessary details to the officer authorized by the Chief Registrar by general or special order in this behalf u/s 25 of the Act and on hearing from him take necessary action in the matter.

In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information u/s 8 or Section 9 of the Act.

3.3. Perusal of notification dated 1st April, 1970 clearly shows that each Talati-cum-village Panchayat Secretary of the Gram Panchayat for the local area comprising the area within the jurisdiction of the respective Gram Panchayat is conferred upon the powers to act as Registrar under the Act. In view of the aforesaid provision, it is clear that upon scrutiny of the relevant material that may be produced by the applicant, the concerned authority is empowered to carry out the necessary correction in the birth register as well as birth certificate. Hence following direction:

7. Having considered the say of the petitioner, more particularly, the relevant documents produced alongwith the petition viz. Passport and Identity Card issued by Election Commission, it is clear that the date of birth of the petitioner is 02.06.1954 instead of 02.11.1955 and the name of mother of the petitioner is Maniben Ranchodbhai Patel.

8. So, without entering into further discussion, present petition requires to be allowed and is allowed. The petitioner is directed to approach respondent authority with all relevant documents alongwith a copy of this order to get the correction made in the birth date and to enter the name of his mother. The respondent authority, after scrutiny of the documents produced before him, shall

correct the date of birth of petitioner as 02.06.1954 instead of 02.11.1955 and to further enter the name of mother of petitioner as Maniben Ranchodbhai Patel in Birth Register as well as Village Form No. 14. It is clarified that after carrying out the correction if the petitioner prays for issuance of a fresh birth certificate, then, the same shall be issued accordingly on payment of requisite fees by the petitioner. Rule is made absolute with no order as to costs.