

(2011) 02 GUJ CK 0141

In the Gujarat High Court

Case No : Special Civil Application No. 2225 of 2011

Kusumben Jaykrushna Patel

APPELLANT

Vs

Secretary and Another

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 21, 226, 227

Citation : (2011) 02 GUJ CK 0141

Hon'ble Judges : Rajesh H. Shukla, J

Bench : Single Bench

Advocate : Sikander Saiyed, for the Appellant; Hashmukh Patel, AGP for Respondent 1, for the Respondent

Judgement

Rajesh H. Shukla, J.—Rule. Learned A.G.P., Mr. Hashmukh Patel appears and waives service of notice of rule on behalf of the Respondent No. 1.

2. At the request of learned advocate Mr. Saiyed, the matter is taken up for final hearing. Learned AGP Mr. Hashkukh Patel has no objection.

3. The present petition has been filed by the Petitioner under Articles 14, 19, 21, 226 and 227 of the Constitution of India and under the provisions of the Birth & Death Registration Act for the prayer that appropriate writ, order or direction may be issued to the Respondents to change the date of birth of the Petitioner from 11.09.1951 to 03.06.1951 on the grounds stated in the memo of petition.

4. Learned advocate Mr. Saiyed referred to the School Leaving Certificate (Annexure-B), which records the date of birth of the Petitioner as 03.06.1951 as well as xerox copy of the Passport (Annexure-A), which also records the date of birth as 03.06.1951. He, therefore, submitted that the date of birth as recorded in these documents is 03.06.1951, however, when he has applied to the Respondents, inadvertently the date of birth is mentioned as 11.09.1951, which is not correct and, therefore, the present petition is filed when it has been rejected by the Respondents.

5. Learned A.G.P., Mr. Patel has resisted the present petition stating that all these documents ought to have been supplied to the Respondent authorities and as it has not been properly mentioned, the order may not be passed.

6. In view of the rival submissions, it is required to be considered what could be an appropriate order or direction that could be issued.

7. Prima-faice, it transpires that the School Leaving Certificate and Passport record the date of birth is 03.06.1951. When the passport could have been issued, same documents would have been produced in support of his details. However, inadvertently the date, which has been recorded in the register, is 11.09.1951, which is required to be corrected. It appears that the application (Annexure-C) dated 24.09.2003 was made and, therefore, it would not be proper to grant any relief straightway as no order has been passed either way.

8. In light of this back ground, it will be open for the Petitioner to approach the Respondent No. 2-Mamlatdar, Dholka, Ahmedabad with a request to change or record correct date of birth as 03.06.1951 within a period of one month from the date of the receipt of the copy of the order along with supporting documents that may be produced by the Petitioner. The Respondent No. 2-Mamlatdar shall inquire into matter and examine it whether date of birth recorded in birth register is correct or not and thereafter having satisfied himself about the documents that may be produced by Petitioner like School Leaving Certificate as well as Passport, he shall pass an order making correction in the entry of the birth and death register within a period of one month. He shall also consider the application of the Petitioner in light of the decision of Division Bench of this Court in the matter of Regional Passport Officer Vs. Kokilaben Panchal and Others, as well as the decision of this Court in matter of Nitaben Nareshbhai Patel Vs. State of Gujarat and Others, He shall pass appropriate reasoned order for correcting birth date and registering/entering name of Petitioner in birth register in accordance with law.

9. With these observations and directions, the present petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent. Direct service is permitted.