

(2004) 07 KL CK 0034

In the High Court Of Kerala

Case No : Writ Petition (C) No. 21304 of 2004

Meena

APPELLANT

Vs

Corporation of Cochin

RESPONDENT

Date of Decision : 27-07-2004

Acts Referred:

Kerala Registration of Births and Deaths Act, 1969 — Section 14, 15, 30(2), 7(2)
Kerala Registration of Births and Deaths Rules, 1999 — Rule 11, 11(1), 11(2), 5

Citation : (2004) 3 ILR (Ker) 375 : (2004) 2 KLT 1118

Hon'ble Judges : M. Ramachandran, J

Bench : Single Bench

Advocate : Govind K. Bharathan and Manu Mohan, for the Appellant; K.R. Sunil, for the Respondent

Judgement

M. Ramachandran, J.—From the averments made in the Writ Petition and the documents produced, it is certain that the petitioner had been delivered of a female child on 26.5.2004. She had been admitted in the Ernakulam Medical Centre, Palarivattom. Hospital authorities, as envisaged under the Registration of Births and Deaths Act 1969, reported the birth to the Cochin Corporation. It had been registered as No. 2245 on 11.6.2004. The Certificate issued by the Health Supervisor, who is shown as the third respondent as "Health Officer, Corporation of Kochi", is Ext.P1. The name of father is shown in the certificate as T. Ajith Kumar. The name of mother is shown as Meena Ajith Kumar. The name of the child is entered as Aardra Ajith Kumar Menon. There is no dispute that the Certificate conformed with the details supplied to the competent authority.

2. The certificate so issued was later found to suffering from discrepancies, which required to be corrected appropriately. The parents of the child are in possession of Passports issued by the Government of India. Therein, the name of the mother is shown as Thykoodathil Meena Ajith Kumar. The name of father, as recorded in his Passport, is Ajith Kumar Thykoodathil. The husband is a Non Resident Indian, working in the United Arab Emirates and the petitioner also was residing at Doha

and had come for delivery and intends to go back shortly.

3. In common life, Ext.P1 would not have been objectionable, as by normal standards, the essential details stood incorporated. But, since the daughter's name is to be incorporated in the Passport, the entries as at present made are likely to lead to difficult situations. Entries in the Passport have to be extremely accurate, and because of the computer verification, at every stage of travel, innocent errors lead to problems. The apprehension is that Ajith Kumar Thykoodathil would not have been recognised as father of the child, since the birth certificate now shows the name of the father was T. Ajith Kumar. This is the case with regard to the entry of the mother's name as well. A change in the name in the Birth Certificate pertaining to them as well as the child therefore was solicited. A shorter name of Aardra Ajith Menon alone was decided as the name of the child for all purposes.

4. The petitioner submits that the entries had been supplied by her father, who was unaware of her full name as entered in the Passport. He had also overlooked to note the name of his son-in-law in the official records. Finding the practical difficulties for obtaining a Passport with correct entries pertaining to her newly born daughter, the petitioner therefore had submitted an application before the Health Supervisor, Corporation of Kochi. The said officer is the notified authority for incorporating appropriate corrections in the basic records. But no official communications have forthcome, and as the delay is prejudicing her in more than one manner, remedy of a Writ Petition has been resorted to.

5. A copy of the Writ Petition had been given to the standing counsel Sri. K.R. Sunil appearing for the respondents. He submits that as the entries had been supplied and acted upon, it had not been possible to make corrections taking notice of the Circulars which governed the issue. It was further submitted that there was no dogmatic objection for making the corrections as the child was only an infant born on 26.5.2004, and if the law permits, the matter could be viewed sympathetically and practically. According to him, definitely the Corporation of Kochi would not stand on technicalities, and would rise up to redress grievances of citizens.

6. The learned counsel for the petitioner referred to judgment of this Court in support of his contentions, that when errors were ex facie, power was vested with the executive to correct them. Reference was made to the decision reported in *Girijan Vs. Registrar of Births and Deaths*, . In that case, the learned Judge had held that the stand of the Corporation that there was no provision for change in the Birth Register is incorrect. It was held that as the child had not reached the age to be admitted to school, if the parents wanted to change the name, they were free to do the same, and request for correction should be entertained. It was held that so long as the authority was satisfied that the applications came from the parents, they are bound to make a correction.

7. The learned standing counsel, however, points out that no supporting reasons

have been stated in the judgment and the provisions of the Act and Circulars issued from time to time restricts the liberty of persons to get the name corrected. Additionally, here there are also hurdles on the part of the statutory authorities for obliging the requests, even if the ratio of the judgment could be accepted. In the present case, not only the change in the name of the infant is sought for, but basically the entries pertaining to the parents' names are required to be corrected.

8. We may, therefore, look into the relevant provisions so as to see whether it will be possible for the entries to be got corrected, as has been requested for. u/s 7(2) of the Registration of Births and Deaths Act, 1969 (for short the Act), every Registrar is to enter in the register all informations given to him u/s 8 or Section 9 and also to take steps to inform himself carefully of every birth and every death which takes place in his jurisdiction. He is expected to ascertain and register the particulars required to be registered. u/s 8 of the Act, the births and deaths are to be reported by the head of the household, if it happens in residential houses. In respect of births and deaths in the hospital etc., the medical officer in charge is entrusted with the duty. A person, who orally gives the information, is obliged to give his name and other details and sign the Registrar. Extracts thereupon are to be given to the informant, as could be seen from Section 12. Section 14 refers to the registration of name of the child. Where the birth of any child has been registered without a name, the parent or guardian of such child is to give the information within the prescribed period and thereupon the Registrar is to enter the name and initial the date of the entry.

9. Adherence to Section 15 of the Act also might be necessary, which deals with correction or cancellation of entry in the Registrar of Births and Deaths. However, it has to be observed that this provision only deals with the entry of birth or death in the register (and not in respect of other details). If it is proved to the satisfaction of the Registrar that the entry is erroneous, fraudulent or improperly made, he is authorised to correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry.

10. Rules have been framed by the Kerala Government by S.R.O No. 150/2000, in exercise of the powers conferred by Section 30 of the parent Act. The rules are intended to carry out the purposes of the Act, without prejudice to the generality of the provisions prescribed u/s 30(2). The areas where the rules could be framed have been elaborately given. Rule 11 deals with the matter of correction. Though u/s 15 of the Act, there is provision for correction of only entry relating to birth or death, advisedly wider powers are seen to be given to the notified authorities. Perhaps this is taking notice of the duty of the officer concerned u/s 7(2), whereby he is to enter all informations given to him and no time limit is prescribed. Rule 11(1) authorises the Registrar to correct a clerical or formal error reported or an error otherwise notified by him. He is authorised to enquire into the matter if he is satisfied of such error, he is to correct the error, by correcting or canceling the entry. He is to forward an extract of the corrected

entry to the Government or the officer specified in this behalf. Sub-rule (2) refers to the procedure to be adopted. If any person asserts that any entry in the register is erroneous in substance, Registrar may correct the entry in the manner prescribed u/s 15 upon production of a declaration setting forth the nature of the error and true facts of the case subscribed by two credible persons having knowledge of the facts of the case.

11. Thus it is clear that in appropriate cases, conforming to the procedure, corrections are indeed permitted. The standing counsel for the Corporation referred to Circulars, that had been issued by the Director of Panchayats, who is the Chief Registrar under the Act. The Circulars shown to me were those issued as B1/19048/ 95 dated 24.3.1997; B1/1536/1/97 dated 15.7.97 and B2/35424/98 dated 5.10.1998. I may deal with them, but in view of the authority conferred by the rules, for making corrections, I do not think it is necessary to advert to them in extenso, since it is evident that almost a dozen Circulars had come to be issued, giving clarifications from time to time.

12. Though u/s 15 only correction of entries regarding births and deaths have been envisaged, the rules took care of the situation, where corrections might have been required to be carried out in respect of other connected entries also. In fact, as could be seen from Rule 5, the entries supplied are characterized as of two class, viz., those coming under the Legal Part and Statistical Part. But, Rule 11 does not refer to such segregation, as the expression used is that "clerical or formal error in the Register" could be corrected, however observing the safeguards to be followed. Rule 11(2) clothes the third respondent with sufficient power to make corrections when a person asserts that the entry in the register requires correction.

13. In the present case, the petitioner has pointed out the mistake in describing her name, her husband's name and the required name to be entered in respect of her daughter. The petitioner also referred to the declarations submitted by Mr. George Vallakalil, Secretary of the Tripunithura Municipality and Sri. P.B. Somasekharan Nair, Health Supervisor, Tripunithura Municipality. Reference is also made to the details of the Passport and the extracts from the S.S.L.C. Book. The entries in the Register, as presently made, may cause problems in later life of the infant, as strict conformity with reference to the names of her parents would be necessary for all purposes in her life, especially since she has to leave the shores of her country very shortly. Also a correction at this stage, will not affect any other master records pertaining to her, as they are yet to originate.

14. The Circulars referred to by the Standing Counsel do not restrict the jurisdiction of the Officer that has been conferred by the rules. They were only clarificatory in nature. Circular dated 24.3.1997 is comprehensive in nature, but it indicates that if a pet name is given to the child and in case the parents request that before admitting to the school the real name has to be incorporated, it may be possible for the authorised officer to oblige them with the permission of the Chief Registrar. If there are spelling mistakes or clerical mistakes, the officer

is authorised to make the entry, at his discretion. The said Circular also refers to the request for changes after admission to the school. Such issues are not relevant here. The Circular dated 15.7.1997 clarifies that only on the basis of application of the parents, the name of the child is to be entered in the Birth Register. Here also, it is pointed out that if there is a pet name, only in case the parents apply the name could be permitted to be changed. The latest Circular dated 5.10.1998, according to the counsel, imposes a restriction. If the name has been entered on a joint application of the parents, no corrections are to be brought out. This was after relaxation of the existing instructions that after six years of the date of entry, the pet name could not have been changed at all. The Circular conferred powers on the concerned Registrar to change the name even after the above period of six years, with restriction only in respect of changes about births which had taken place before 1.4.1970, the date of commencement of the Act. It is also not relevant, especially since one of the parents has made an application only now.

15. I do not think that the Circulars in any way inhibit the discretion that has been vested with the authorities under the Rule. We may also bear in mind the objects and reasons which had prompted the enactment of Registration of Births and Deaths Act. The Government of India has found that only a few States had legislations regarding registration of births and deaths. In several States, it was governed by executive orders. Diversity in practices and inefficiency of performance had surfaced because of the above loose arrangements and requirement for Central Legislation had become a necessity. The Government also required adequate, accurate countrywide registration data for the purpose of national planning, organising public health and medical activities and developing family planning programmes. The national interest required an acceptable level of performance by the States in these regions and technical uniformity of the methods and standards used in the collection and compilation of data throughout the country.

16. When the basic objectives itself is accurate statistics, the minor details regarding the name and similar entries have not much of relevance, from the point of view of the enactment. As pointed out by counsel for the petitioner, because of computerization and globalization, even small errors which might have been inconsequential during the past decades presently pose problems from unexpected quarters. Accuracy in the entries pertaining to Birth Register was to be ensured, so as to ward off such situation. Therefore, effort should be there on the part of the authorised officers to see that assistance is extended to persons who have genuine grievances. Instead of a technical approach, a realistic and helpful attitude is always expected, subject to statutory prescriptions. The standing counsel agree with this proposition.

17. One other circumstance also might be relevant in the present case. Section 14, as previously noted, deals with registration of name of child. It is not mandatory that such entries are to be given at the time of registration of birth

and the parent need give the name of the child only within the prescribed period. Relevant rule with reference to Section 14 could be found as Rule 10. Twelve months" time is granted for the parents to supply the name of the child to the Registrar from the date of registration of the birth of the child. Therefore a position could be envisaged that during the above period, at least, it may even be possible for supplying or re-supplying the name of the child. The petitioner need not be taken to task for the only reason that the name was given well before hand.

18. In the aforesaid circumstances, a correction as requested by Ext. P9 would be admissible and is liable to be granted, in respect of not only the name of the child, but also the description of the parents. I am satisfied by the adequate materials have already been supplied by the petitioner, entitling, a correction, Consequently, there will be a direction to the third respondent to interpolate and correct the entries pertaining to the daughter of the petitioner in the Birth Register against registration No. 2245 of the year 2004. The name of the child should be corrected as Aardra Ajith Menon. The name of father is to be corrected as Ajith Kumar Thykoodathil and the name of mother is to be corrected as Thykoodathil Meena Ajith Kumar.

19. I am giving this direction since the petitioner had highlighted the urgent need for a certificate to be issued to her with the corrected details. A Birth Certificate incorporating the corrections as above should be issued to the petitioner within a period of one week from the date of receipt of copy of this judgment.

The Writ Petition is disposed of as above.