
(2013) 10 KL CK 0079

In the High Court Of Kerala

Case No : Writ Petition (C) No. 15865 of 2013

Musthafa Nambiamkulam Abdulkader

APPELLANT

Vs

Ministry of External Affairs

RESPONDENT

Date of Decision : 11-10-2013

Acts Referred:

Citation : (2013) 4 KLT 527 : (2014) 1 RCR(Civil) 515

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : Mini Elizabeth George and G. Vidya, for the Appellant; P. Parameswaran Nair, Assistant Solicitor General of India, for the Respondent

Judgement

P.R. Ramachandra Menon, J.—The petitioner has approached this Court seeking for correction of date and place of birth in the passport bearing No. E9110130. The case of the petitioner is that his actual place of birth is "Pullut, Kerala", but the same is wrongly entered as "Bangalore" in Ext. P1 passport Similarly, his actual date of birth is 11.3.1962, but the same was wrongly entered as 11.12.1956. On coming to know about the mistake, the petitioner had filed Ext. P5 application seeking to effect necessary corrections. In support of the case projected by the petitioner, Ext. P2, 1st page of the SSLC Book is produced. Since Ext. P5 application was not acted upon by the second respondent, insisting to produce the order of competent civil Court to correct the place of birth, the petitioner is now before this Court for getting appropriate relief. The learned counsel for the petitioner relies upon the judgment of this Court in Swapna Siju Vs. Union of India and Another, wherein it was held that to prove the date of birth, SSLC book of an applicant born before 26.01.1989 can be relied on. The learned Counsel for the petitioner also seeks to rely on the Circular No. VI/401/2/5/2001 dated 29.10.2007 issued by the Ministry of External Affairs. The relevant clause is extracted below:

Many countries insist that date/place of birth in all relevant documents of a person be same, for purposes of immigration, long term resident visas etc.

Consequently, frequent requests are being received by PIAs in India and sometimes Missions abroad for change in date of birth/place of birth in passports already held by individuals. A fair number of court cases are also being filed by applicants for effecting changes in date of birth and place of birth. Instructions contained in Ministry's Circular of even number dated 18th April 2001 (copy enclosed) are by and large ignored by most PIAs. In this regard, all PIAs are advised that all cases relating to change of date of birth/place of birth in passports already held by an applicant be examined on following lines before asking for production of a Court Order:

a) Where an applicant claims clerical/technical mistake in the entry relating to birth/place of birth in the passport and asks for rectification/correction in all such cases the documents produced earlier as proof of date of birth/place of birth at the time of issue of passport may be perused erased (if not already destroyed) by PIA. In case, it is a clerical mistake either by the applicant or the PIA, date/place of birth correction may be allowed by issue of fresh passport booklet; in the former case, by charging fee for fresh passport and in the latter, gratis. There is no need for declaratory court order in such cases.

(emphasis is supplied)

2. Going by the above clause, it is very much obvious that the SSLC Book is sufficient to prove the Date/Place of Birth. However, in paragraph "7" of the statement filed on behalf of the respondents it is stated as follows:

Vide Ministry of External Affairs Circular No. VI/401/2/5/01 dated 22.8.2008, it is stated that Passport issuing Authority should contest date of birth and place of birth correction cases where the difference of date of birth is for several years and the place of birth is changed from one State to another or from abroad to India.

(emphasis is supplied)

The petitioner has now produced a copy of the Birth Certificate issued by the competent authority as Ext. P7 along with I.A. No. 13168 of 2013 showing the Date of Birth and Place of Birth of the petitioner. Birth Certificate issued by the competent authority is the most reliable piece of evidence to substantiate the Date of Birth and Place of Birth. There is no conflicting entry between Ext. P2 and Ext. P7 either in respect of the Date of Birth or Place of Birth. Whether Ext. P2/Ext. P7 is a genuine document or not, is a matter to be ascertained by the second respondent and the further course of action will be subject to the outcome of such verification.

In such circumstances, the second respondent is directed to re-consider Ext. P5 application preferred by the petitioner and pass appropriate orders after ascertaining the correctness/genuineness of Exts. P2/P7 and finalise the proceedings in accordance with law. It shall be done at the earliest, at any rate, within two months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of as above.