
(2008) 03 GUJ CK 0015

In the Gujarat High Court

Case No : Special Civil Application No. 2405 of 2008

Patel Arunaben Baldevbhai

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 17-03-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Registration of Births and Deaths Act, 1969 — Section 15

Citation : (2008) 03 GUJ CK 0015

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

Bench : Single Bench

Advocate : Kirit R. Patel, for the Appellant; Satyam Chhaya, Asst. Government Pleader for Respondent 1 and Bipin Bhatt, for Respondent 3, for the Respondent

Final Decision : Allowed

Judgement

C.K. Buch, J.—Rule. Mr.Satyam Chhaya, learned A.G.P., waives service of notice of Rule on behalf of respondent No. 1 and Mr.Bipin Bhatt, learned Advocate appearing on behalf of respondents No. 2 Mr. G.R. Patel, Secretary (Talati-cum-Mantri) of Khoraj Village Panchayat, who is personally present in the Court and respondent No. 3 waives service of notice of Rule. With the consent of the parties the matter is fixed for final hearing today.

2. This Court while passing the order dated 08/02/2008 has orally asked the petitioner to produce the documents of convincing nature because it appears that the name of the petitioner was inserted in the Register maintained under the Registration of Births and Deaths Act, 1969. In response thereof, the petitioner has produced the marriage certificate, passport issued by the competent authority, ration card and mark-sheets of Third B.A. (Special) Degree of Examination issued by the Gujarat University. I have perused the said documents and all these documents reflect the name of the petitioner as "PATEL ARUNABEN RAJESHKUMAR".

3. The petitioner has prayed for issuance of writ, order or direction invoking the

jurisdiction of this Court under Article 226 of the Constitution of India that the respondents may be directed to correct the name of the petitioner as Arunaben instead of Gitabahen in the Register maintained by Khoraj Village Panchayat, Dist: Gandhinagar.

3.1 The say of the petitioner is that her real name is Arunaben and she was never named as Gitabahen. It is submitted that on the second day of her birth, her uncle had gone to the Panchayat Office to get her birth registered and had erroneously mentioned the name of newly born child i.e. petitioner as Gitabahen. However, after several days of performing ceremony of conferring the name, the petitioner is known as Arunaben in the society and for all the purpose, the petitioner is known as Arunaben and therefore in all the documents produced before the Court, name of petitioner reflects as Arunaben. In the school leaving certificate issued by the Saurabh Higher Secondary School, Nava Vadaj, Ahmedabad, the name of petitioner is also reflected as Arunaben.

3.2 It is further submitted that to get the name corrected, the petitioner had made request to the concerned authority in the month of November, 2007 and copy of the said application is produced at Page 7 of the petition, but the authority did not respond in writing and petitioner was orally informed that the authorities have no powers to correct the name in the register of Births and Deaths Register, considering the lapse of period in between and therefore the petitioner has approached this Court.

4. On the other hand the backbone of the submission of Mr.Chhaya, learned A.G.P., is that the petitioner should be directed to make the representation in writing before the Local Self Government because the Local Self Government has powers to amend the incorrect entry and / or respondent No. 2-Talati-cum-Mantri, Khoraj Village can be directed to consider the representation, if any, to be made by the petitioner with a copy of this order to correct her name and accordingly the name of petitioner in the register should be corrected maintained under the Births and Deaths Registration Act, mainly the scheme of Section 15 of the Act.

5. Learned Advocate for the petitioner has further submitted that after making representation in the month November, 2007, the petitioner has approached this Court in the month of February, 2008. In similar cases, this Court has directed the concerned authority to correct the name and date of birth of newly born child and petitioner has annexed one copy of such order passed by this Court (Coram: C.K. Buch, J.) in S.C.A. No. 511 OF 2008 on 01/02/2008 wherein, the name of the petitioner is wrongly mentioned as "Balkrishna" instead of "Vimalkumar" and therefore the necessary correction to be made in the relevant column. The reason was placed before the Court that as the petitioner was born when the family of the petitioner was celebrating the birthday of Lord Krishna and his name was inserted as Balkrishna but upon actual ceremony of conferring name was performed, he was named as Vimal kumar.

5.1 Here, the facts are bit different. It appears from the documents produced by the petitioner that name of the petitioner is Arunaben, but the uncle of the petitioner on the second day of her birth had either erroneously or under haste mentioned name of newly born baby child as Gitahaben in the Birth Certificate. Though the authority having power to make the necessary correction in the entry could have corrected the name of petitioner in the register on making representation by the petitioner, but has not taken care to exercise the jurisdiction well in time and therefore keeping in the mind the earlier decisions of this Court as referred herein above, and the other judgment rendered by this Court (Coram: K.S. Jhaveri, J.) in case of Arunkumar Mohanbhai Patel v. Talati cum Mantri, in Special Civil Application No. 12822 of 2004 dated 8.10.2004, the petition requires to be allowed.

7. Therefore without entering into any further detailed discussion the petition is allowed. The entry shall be corrected by the respondent No. 2-Talati-cum-Mantri, Khoraj Village Panchayat by placing correct name of the petitioner from "Gitababen" to "Arunaben" in the register of birth maintained under the Births and Deaths Registration Act, 1969. After carrying out necessary correction in the register regarding the name of the petitioner, if the petitioner applies for issuance of new Birth Certificate then the same shall be issued as per norms i.e. on payment of requisite fees. To see that the order passed by this Court is complied with in its true spirit the petitioner shall approach the respondent No. 2-Talati-cum-Mantri, Khoraj Village Panchayat alongwith a copy of this order requesting to do the needful in the matter. Rule is made absolute in the above terms.