

(2010) 12 KL CK 0030

High Court Of Kerala

Case No: Writ Petition (C) No. 32401 of 2010

Abida

APPELLANT

Vs

Government of India

RESPONDENT

Date of Decision: Dec. 8, 2010**Acts Referred:**

- Passports Act, 1967 - Section 4, 5, 6

Citation: (2011) 1 KLT 34 : (2011) 2 RCR(Civil) 426**Hon'ble Judges:** Antony Dominic, J**Bench:** Single Bench

Advocate: Jose K. Kochupappu, T.M. Chandran, V.A. Sasidharan and Joseph Albin Nedunthally, for the Appellant; T.P.M. Ibrahim Khan, Asst. Solicitor General and P.A. Reziya, for the Respondent

Judgement

Antony Dominic, J.

Petitioner made an application to the Respondents for issuance of a passport. Along with the application, in proof of her date of birth, Petitioner produced an extract of her S.S.L.C Book. However, the second Respondent returned her application, with the endorsement to produce birth certificate. Thereupon, this Writ Petition is filed seeking a direction to the second Respondent to accept S.S.L.C. certificate as proof of the date of birth of the Petitioner and issue passport on the basis of Ext.P3 application.

2. Learned Counsel for the Petitioner contends that Passports Act do not oblige an applicant to produce birth certificate as proof of date of birth. It is also his contention that an application for passport is to be made as per Section 5 of the Act which can be refused only on the grounds enumerated u/s 6 of the Act. It is stated that Section 6 of the Act, does not authorise the second Respondent to reject an application for passport on the ground that birth certificate issued by the Municipal Authority is not produced.

3. A statement has been filed on behalf of the second Respondent, producing circular dated 24th October 1991 issued by the Ministry of External Affairs. Paragraph 2 of the circular states that applicants born on or after 26th January 1989 should produce attested copy of the birth certificate from Municipal Authorities if born within territorial jurisdiction of a Municipal Authority or otherwise, from the office of the Registrar of Births and Deaths. It is also pointed out that along with the passport application form, Respondents supplied Passport Information Booklet and that, as per Section 4 thereof, among the documents to be attached in the application form, certificate issued by the Municipal Authority or District Office, Registrar of Births and Deaths is one of the documents specified. It is therefore stated that the action of the second Respondent in returning the application of the Petitioner cannot be faulted.

4. Passports Act do not specify the nature of the document to be produced in proof of the date of birth of an applicant. Therefore, if the Respondents have decided to insist on production of the birth certificate issued by the Registrar of Births and Deaths, such a decision is well within their power and is not contrary to any of the statutory provisions. In that view, I do not find anything illegal in the stand taken by the 2nd Respondent. If that be so, necessarily, it is has to be held that application made by the Petitioner was a defective one.

5. I do not also find any merit in the contention of the Petitioner that passport can be refused only on the grounds enumerated u/s 6 of the Act and that since non-production of a certificate issued by the Registrar of Births and Deaths is not a ground enumerated, Respondents could not have returned the application. This, in my view, applies only in case where an application made is otherwise in satisfaction of all requirements laid down for the issue of passport. The application made by the Petitioner being defective, Section 6 of the Act does not come into operation at all.

6. In that view of the matter this Court will not be justified in finding fault with the action of the second Respondent in returning the defective application made by the Petitioner. Needless to say that it will be open to the Petitioner to submit an application afresh enclosing the certificate issued by the Municipal Authority and in which case the same will be dealt with in accordance with law.

7. Writ Petition is disposed of as above.