

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 29TH DAY OF MARCH 2022 / 8TH CHAITHRA, 1944

WP(C) NO. 27832 OF 2021

PETITIONER:

RUBEN TOM JOSEPH,
AGED 44 YEARS
S/O.JOSEPH JOHN, KOLENKERIL BUNGLOW,
H.S.JUNCTION, P.O.ADOOR, PIN-691 523,
KERALA.

BY ADVS.
V.R.GOPU
URMILA.M.G

RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY THE SECRETARY, MINISTRY OF
EXTERNAL AFFAIRS, 2106, B-WING JAWAHAR LAL
NEHRU BHAWAN, NEW DELHI-110 011.
- 2 EMBASSY OF INDIA, KUWAIT,
DIPLOMATIC ENCLAVE, SAFAT ARABIAN GULF ST.,
KUWAIT CITY-130 15, KUWAIT, REPRESENTED BY
AMBASSADOR OF INDIA TO KUWAIT.

BY ADV MANU S., ASG OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 29.03.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

N. NAGARESH, J.

.....
W.P.(C) No.27832 of 2021
.....

Dated this the 29th day of March, 2022

J U D G M E N T

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The petitioner, who was born in Kuwait, has filed this writ petition seeking to command the respondents to direct the Consulate of Kuwait in India to issue a certificate to the petitioner stating that the name of the petitioner was wrongly entered as Tomson in Ext.P1 Birth Certificate and Mr. Tomson and Mr. Ruben Tom Joseph holding Indian Passport No.M2736669 are one and the same person only.

2. The petitioner states that he was born in Kuwait on 16.03.1977 at Maternity Hospital, Kuwait. The parents of the petitioner were working in Kuwait. The Central Registry for Births and Deaths under the Ministry of Public Health, Kuwait had issued Birth Certificate of the petitioner in 1977.

Since the Birth Certificate was in Arabic language, the wrong entry of petitioner's name could not be detected.

3. The petitioner states that in all other documents including in the Passport issued by the Embassy of India, the petitioner's name is correctly shown as "Ruben John Joseph". When the petitioner's parents retired from service in Kuwait, the petitioner and parents came back to India. The petitioner is holding Indian passport No.M2736669.

4. Now, the petitioner wants to go to US. When the petitioner submitted application for H-1B Job Visa, the application was rejected for the reason that the name of the petitioner shown in the Birth Certificate is different from actual name of the petitioner. The petitioner sent a representation to the Consulate of Kuwait, Mumbai seeking to issue a certificate stating that the name of the petitioner was wrongly entered. The representation was not responded to. Hence, the petitioner is before this Court.

5. The respondents, who are Union of India and Embassy of India, Kuwait, filed a statement. The

respondents submitted that the petitioner was informed of the prescribed procedure for correcting the name. What is sought to be done by the petitioner are sovereign functions of the State of Kuwait. Steps are to be taken by the petitioner himself and the Ministry of External Affairs or Embassy of India, Kuwait cannot do much on behalf of the petitioner.

6. The respondents explained the procedure to be followed by the petitioner, which is as follows:-

Service Description

This service allows citizens, residents and visitors to obtain a birth certificate with a new name modification, if the birth certificate holder is more than six years old.

Conditions for obtaining the service

The daughter or son whose name is to be changed must have a Kuwaiti birth certificate.

Required documents

- (i) A final court ruling stating the amendment or correction
- (ii) Original birth certificates (Original & copy)
- (iii) Civil ID (Original & copy)
- (iv) Passport (Original & copy)

Procedures

Bring the required documents and go to the Central Registry of Births & Deaths Department of the

Ministry of Health, State of Kuwait – Maidan Hawally (Dasma area) - Block 11 – Hammoud Al Nasser Street to implement the service.

7. I have heard the learned counsel for the petitioner and the the learned ASGI representing the respondents.

8. The petitioner was born in Kuwait and the petitioner's name was wrongly recorded in the Birth Certificate. Now, the petitioner wants to correct the Birth Certificate and obtain a certificate from the State of Kuwait that “Tomson” and the petitioner is one and the same person.

9. Issuance of such certificates is sovereign function of the State of Kuwait. Ordinarily, citizens themselves will have to go to Kuwait and do the needful for the same. Indian Embassy in Kuwait can only act as a Facilitator. From Ext.P7 e-mail communication sent by the 2nd respondent to the petitioner, the Embassy of India, Kuwait has informed the petitioner that to examine the matter of the petitioner (if he is in Kuwait), the petitioner may approach Indian Embassy in Kuwait with all documents in support of his claim including

Birth Certificate issued by the Embassy / Embassy Birth Registration Serial number. The Embassy of India, Kuwait also informed the petitioner that if the petitioner is not in Kuwait, he may authorise someone in Kuwait with all documents in support of his claim and direct such person to visit the Embassy.

10. The petitioner, however, wants to get certificates without visiting Kuwait and without authorising anyone in Kuwait, on his behalf. When the actual exercise of correction of certificates is to be done by the State of Kuwait, the petitioner cannot insist that without the presence of the petitioner or anyone authorised on his behalf in Kuwait, the petitioner should get the certificate corrected. The petitioner can only aspire to get services provided by the Embassy of India, Kuwait within their procedural limitations.

11. In the circumstances, no orders can be passed in this writ petition. The petitioner will, however, be free to follow the advice given by the Embassy of India, Kuwait in Ext.P7 for redressal of his grievances.

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With the said observation, the writ petition is dismissed.

aks/26.03.2022

Sd/-
N. NAGARESH, JUDGE

APPENDIX OF WP (C) 27832/2021

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE BIRTH CERTIFICATE ISSUED BY THE CENTRAL REGISTRY FOR BIRTH AND DEATHS DATED 18.05.1977 IN ARABIC LANGUAGE.
Exhibit P1 A	TRUE ENGLISH TRANSLATION OF EXHIBIT P1.
Exhibit P2	TRUE COPY OF THE PASSPORT IN FAVOUR OF PETITIONER ISSUED AT KUWAIT BY THE 2ND RESPONDENT DATED 03.01.1993.
Exhibit P3	TRUE COPY OF THE PASSPORT NO.E59787756 OF PETITIONER ISSUED AT KUWAIT BY THE 2ND RESPONDENT DATED 30.11.2020.
Exhibit P4	TRUE COPY OF THE EMAIL SUBMITTED PETITIONER'S LAWYER TO THE CONSULATE OF KUWAIT, MUMBAI DATED 04.12.2021.
Exhibit P4 A	TRUE COPY OF A MODEL OF CERTIFICATE TO BE ISUSED DATED NIL.
Exhibit P5	TRUE COPY OF THE EMAIL SUBMITTED PETITIONER'S LAWYER TO THE 1ST RESPONDENT DATED 04.12;2021.
Exhibit P6	TRUE COPY OF THE EMAIL SUBMITTED PETITIONERS LAWYER TO THE 2ND RESPONDENT DATED 04.12.2021.
Exhibit P7	TRUE COPY OF THE REPLY SENT FROM THE OFFICE OF THE 2ND RESPONDENT THROUGH EMAIL TO THE COUNSEL FOR PETITIONER DATED 4.12.2021