

HIGH COURT OF MADRAS**Bench: Justice G.R. Swaminathan****Date of Decision: May 13, 2024**

WRIT PETITION (MD) NO. 10377 OF 2024

WMP(MD) Nos. 9352 & 9353 of 2024

**Minor Gaurav Murali, Rep. by his Natural Guardian Father Mr. Murali
Chelliah ... Petitioner****Versus**

- 1. The Zonal Deputy Tahsildar, Musiri Taluk, Trichy District.**
 - 2. The Revenue Inspector, Musiri Taluk, Trichy District.**
 - 3. The Village Administrative Officer, Musiri Taluk, Trichy District.**
- ... Respondents**

Legislation:

Article 226 of the Constitution of India

Subject: Writ petition seeking quashing of the order dated 06.04.2024 in Application No. TN 320240331689 and a directive to issue a Nativity Certificate to the petitioner.**Headnotes:**

Constitutional Law - Article 226 - Writ of Certiorarified Mandamus - Nativity Certificate - Minor petitioner represented by his natural guardian applied for a Nativity Certificate to pursue higher studies in Tamil Nadu - Application rejected by the Zonal Deputy Tahsildar on grounds of non-residence and birth outside the state - High Court quashes the order and directs issuance of the Nativity Certificate - Held, rejection of application based on birthplace and current residence contrary to established precedents and principles of domicile - Authorities directed to issue Nativity Certificate within seven days. [Paras 1-5]

Eligibility for Nativity Certificate - Analysis - Held, birthplace and current residence outside Tamil Nadu not sole determinants of nativity - Petitioner's parents, being natives of Tamil Nadu with roots traceable to the state, establish eligibility for Nativity Certificate - Authorities' denial based on misinterpretation of criteria and lack of consideration of relevant factors. [Para 4]

Decision - Issuance of Nativity Certificate - High Court quashes impugned order and directs Zonal Deputy Tahsildar to issue the Nativity Certificate within a specified timeframe - Authorities' refusal deemed incorrect and contrary to judicial precedents. [Para 5]

Referred Cases:

- Muthuram Subbu v. the District Collector, WP(MD) No. 4458 of 2024

- Swathi Radhakrishnn v. the District Collector, WP(MD) No. 20516 of 2022
- Shwetha Suresh v. the Tahsildar, WP No. 23836 of 2021
- Minor N. Karunya Vignesh v. The Union Territory of Puducherry, WP No. 20765 of 2019
- Minor Nivedita v. The District Collector, WP No. 5230 of 2021
- Varsha Parappa Totagi v. The District Collector, WP No. 15393 of 2020
- Vardhini Parthasarathy v. The State of Tamil Nadu, WP No. 16292 of 2020

Representing Advocates:

Mr. S. Ramasubramaniam for petitioner

Mr. G. Vairam Santhosh, Additional Government Pleader for respondents

ORDER

Heard both sides.

2.The petitioner is a minor. His father and natural guardian is Thiru.Murali Chelliah. Murali Chelliah was born in Chithoor, Musiri Taluk, Trichy District on 04.04.1970. He did his schooling in Tamil Nadu. He also did his graduation and post graduation in this State. He got married to

Ms.Gomathi Ponnangan. She is also a native of Pollachi, Coimbatore District. The couple were working in the Shipping Corporation of India Limited at Mumbai. The petitioner (Guarav Murali) was born in Mumbai on 06.11.2006. He is studying in Mumbai. The petitioner intends to apply for pursuing higher studies in Tamil Nadu. He is in need of Nativity Certificate. An online application was submitted on 15.03.2024 in this regard. The Zonal Deputy Tahsildar, Musiri Taluk rejected the application. The application was resubmitted on 31.03.2024. On 06.04.2024, the first respondent issued the impugned order stating that Nativity Certificate cannot be issued because the petitioner is not residing as on date and his place of birth is Mumbai. Challenging the said order, the present writ petition came to be filed.

3.The issue raised in this writ petition is no longer res integra. The learned counsel for the petitioner has filed a compilation of judgments in this regard. They are as follows :

1. Muthuram Subbu v. the District Collector – WP(MD)No.4458 of 2024
2. Swathi Radhakrishnn v. the District Collector – WP(MD)No.20516 of 2022
3. Shwetha Suresh v. the Tahsildar – WP No.23836 of 2021
4. Mior N.Karunya Vignesh v. The Union Territory of Pudhucherry – WP No.20765 of 2019
5. Minor Nivedita v. The District Collector – WP No.5230 of 2021
6. Varsha Parappa Totagi v. The District Collector – WP No.15393 of 2020
7. Vardhini Parthasarathy v. The State of Tamil Nadu – WP No.16292 of 2020.

In WP(MD)No.20516 of 2022 (Swathi Radha Krishnan v. The District Collector), it was held as follows :

“Heard the learned counsel on either side.

2. The writ petitioner was born in Kuwait on 06.07.2004. She had her entire schooling in the State of Kuwait. After completing her schooling, the petitioner wanted to join MBBS course. She had already written NEET. The petitioner requires Nativity Certificate for joining in MBBS course under the Tamil Nadu colleges. When she approached the second respondent, the second respondent rejected her request on the ground that she was born in Kuwait and that she stayed therein up to 2020 and that her parents have also been at Kuwait. The second respondent had rejected the petitioner's request primarily on the ground that neither the petitioner nor her parents resided continuously in Tamil Nadu for the preceding five years. The second respondent had obviously gone by the terms of G.O.Ms.No.2388 dated 27.11.1990 issued by the Revenue Department.

3.The rejection order is put to challenge in this writ petition.

4.The learned Special Government Pleader submitted that the impugned order of the second respondent cannot be faulted.

5.I am not able to appreciate the stand taken by the second respondent. In fact the issue on hand is no longer res integra. A learned Judge of Madras High Court vide Order dated 11.11.2020 made in W.P.No.15393 of 2020 (Varsha Parappa Totagi V. The District Collector, Chennai) had already decided the issue. It was held that merely because a person has been absent from the State on account of employment, he or she will not lose his or her permanent residence in the State. In the case on hand, the petitioner's father went to Kuwait only for employment purposes. The petitioner happened to be born in Kuwait because her

parents resided in Kuwait. Even though the petitioner had done her entire schooling in Kuwait, it is difficult to conclude that the family had domiciled in Kuwait. When the parents are from Tamil Nadu and the grandparents are also from Tamil Nadu, the petitioner can only be called as a Tamilian. I hold that the petitioner is a native of Tamil Nadu. It is obvious that the expression “ nativity ” denotes the roots on which a person is anchored.

6. In that view of the matter, the petitioner can only be a native of Tamil Nadu. Therefore, respectfully following the aforesaid order dated 11.11.2020 made in W.P.No. 15393 of 2020 (Varsha Parappa Totagi V. The District Collector, Chennai), the order impugned in this writ petition is quashed. The second respondent is directed to issue Nativity Certificate, certifying that the petitioner hails from Srirangam Taluk. The second respondent shall issue the Nativity Certificate to the petitioner within a period of seven days from the date of receipt of a copy of this order.

7. This writ petition stands allowed.”

4. All the other cases have also been decided in favor of the applicants on the same lines. They are squarely applicable to the case on hand. Merely because the petitioner was born at Mumbai, that cannot be a ground for rejecting the petitioner's application for Nativity Certificate. The petitioner's father was very much born in Musiri Taluk. The petitioner is obviously a Tamilian. His roots are traceable to the State of Tamil Nadu. His mother is also a Tamilian. She was born in Pollachi. The records enclosed in the typed set of papers convincingly demonstrate the same. In these circumstances, rejection of the petitioner's application is incorrect and runs counter to the aforesaid rulings. The impugned order is set aside. The first respondent is directed to issue Nativity Certificate as sought for by the

petitioner within a period of seven days from the date of receipt of copy of this order.

5. This writ petition is allowed. No costs. Connected miscellaneous petitions are closed.

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