

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

Wednesday, the 27th day of July 2022 / 5th Sravana, 1944

WP(C) NO. 18646 OF 2021(E)

PETITIONERS:

1. BILAL S., AGED 17 YEARS ,S/O.SADIK, 'BILOOS', LAJANATH WARD, ALAPPUZHA, REPRESENTED BY HIS MOTHER AND NATURAL GUARDIAN BINITHA K., W/O.SADIK, BILOOS, LAJANATH WARD, ALAPPUZHA DISTRICT - 688 011.
2. AADHIL S., AGED 9 YEARS, S/O.SADIK, 'BILOOS', LAJANATH WARD, ALAPPUZHA, REPRESENTED BY HIS MOTHER AND NATURAL GUARDIAN BINITHA K., W/O.SADIK, BILOOS, LAJANATH WARD, ALAPPUZHA DISTRICT - 688 011.

RESPONDENTS:

1. THE PASSPORT OFFICER, REGIONAL PASSPORT OFFICE, (GOVERNMENT OF INDIA, MINISTRY OF EXTERNAL AFFAIRS), KAITHAMUKKU, THIRUVANANTHAPURAM - 695 024.
2. UNION OF INDIA ,REPRESENTED BY SECRETARY TO GOVERNMENT, MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI - 110 001.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the 1st respondent to consider the application for re-issuance of passport of the petitioners, pending disposal of the above Writ Petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S M.KIRANLAL, MANU RAMACHANDRAN, R.RAJESH (VARKALA), SAMEER M NAIR, VISHNU MOHAN & T.S.SARATH Advocates for the petitioners and of SRI.MANU.S, ASSISTANT SOLICITOR GENERAL OF INDIA, for the respondents 1 & 2, the court passed the following:

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EXHIBIT P1:THE BIRTH CERTIFICATE OF 1ST PETITIONER

EXHIBIT P2:THE BIRTH CERTIFICATE OF 2ND PETITIONER



AMIT RAWAL, J

W.P. No. 18646 of 2021

Dated this the 27th day of July, 2021

ORDER

Petitioners are children of Sadik and Binitha K and have filed the petition through their mother Binitha. There has been a divorce between the husband and wife and mother Binitha has already obtained a correction by submitting appropriate application to the Passport Authority by substituting the name of her husband with her father. Petitioners have also moved an application that their father's name is Sadik but it has incorrectly been written as Zakir.

2. Respondents have contested the matter by filing a statement on the basis of the instructions received from the Regional Passport Officer as per the letter dated 16.09.2021 and contended that in the Birth Certificates at the time of the submission of the application for issuance of the passport, the name of the father was written as Zakir. However, the affidavit do

not disclose whether the Birth Certificate is of the Registrar of Birth and Death or of some Municipality or local Panchayat. The two Birth Certificates Exts.P1 and P2 reflect that the name of the petitioners were registered with the Alappuzha Municipality on 16.12.2003 and 15.10.2012 respectively. Those Birth Certificates do not reflect the name of the father as Zakir. The respondents have not placed on record any material in support of the "statement" which cannot be filed in the absence of any provision in the High Court Rules.

3. It is strange that the advocates on the basis of the instructions are filing the statement and that too, not in accordance with the provisions of the Code of Civil Procedure and the format prescribed under the High Court Rules, as for every department, affidavit has to be on the basis of the information traced from the official record and not as per the instructions.

4. In this view of the matter, I deem it appropriate to summon the Passport Officer who has

passed the instructions to the Assistant Solicitor General without any material. He is directed to be present in this Court on 01.08.2022 and bring the records, both the passport Nos.N3311011 and K6437413 issued in favour of the petitioners reflecting the name of the father as Zakir and the proof of Birth Certificates submitted at the time of submission of the application for issuance of passport.

5.The practice of filing the statement by the lawyer is not provided under the High Court Rules and Regulations. Registrar (Judicial) is directed not to accept any statement filed by the lawyers purported to be a reply or a counter to the pleadings of the writ petition. It has to be a counter affidavit duly verified by the authorised officer and the information disclosed in the affidavit has to be on the basis of the official record available. In case such compliance is not made, this Court may be constrained to take disciplinary action against the officers as well as the staff of the Registry who are entertaining such statements.

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The order is directed to be communicated to the Registrar (General) and Registrar (Judicial) for immediate compliance.

Post on 01.08.2022.

Sd/-
AMIT RAWAL
JUDGE

VV

