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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE V.G.ARUN

WEDNESDAY, THE 7TH DAY OF FEBRUARY 2024 / 18TH MAGHA, 1945

WP(C) NO. 447 OF 2024

PETITIONERS:

1 ROMEO VICTOR
AGED 40 YEARS
THOLATH HOUSE, CHERANALLOOR P O, ERNAKULAM, PIN -
682034

2 JENNY CHERUNNY,
AGED 37 YEARS
THOLATH HOUSE, CHERANALLOOR P O, ERNAKULAM, PIN -
682034

BY ADVS.
P.A.MUJEEB
RESHMA R.
NEZRIN T. IBRAHIM
SREELAKSHMI.P.
SALWA T MUHAMMED
T.A.ATHIRA
MUHAMMAD HASHIR M.

RESPONDENTS:

1 CHERANALLOOR GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, SOUTH CHITTOOR,
ERNAKULAM, PIN - 682027

2 SECRETARY
CHERANALLOOR GRAMA PANCHAYATH, SOUTH CHITTOOR,
ERNAKULAM, PIN - 682027

3 REGISTRAR OF BIRTHS AND DEATH
CHERANALLOOR GRAMA PANCHAYATH, SOUTH CHITTOOR,
ERNAKULAM, PIN - 682027

4 DISTRICT CHILD PROTECTION OFFICER
GROUND FLOOR, CIVIL STATION, KAKKANAD, PIN - 682030



W.P.(C) No. 447 of 2024

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- 5 CHILD PROTECTION COMMITTEE
REPRESENTED BY ITS SECRETARY, DISTRICT CHILD
PROTECTION OFFICE, GROUND FLOOR, CIVIL STATION,
KAKKANAD, PIN - 682030
- 6 COMMISSIONER OF POLICE
REVENUE TOWER, NEAR BOAT JETTY, ERNAKULAM, PIN -
682011
- 7 STATION HOUSE OFFICER
CHERANALLOOR POLICE STATION, ERNAKULAM, PIN - 682027

OTHER PRESENT:

SR.GP.BIMAL K. NATH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**CR****V.G.ARUN J.**-----
W.P.(C) No.447 of 2024
-----Dated this the 7th day of February 2024**JUDGMENT**

The marriage between the petitioners was solemnised on 05/02/2012 and a female child was born to them on 26/06/2022. The birth took place in the second petitioner's residence and the delivery was reported to the first respondent and an application for birth certificate submitted on 28/06/2022. The petitioners were not issued with the birth certificate. On enquiry, they were informed that suspicion had arisen regarding the birth of the child and enquiries were made at the Cheranalloor Panchayat Office, Health Centre and Police Station. As the suspicion could not be cleared even after such enquiry, the police directed a DNA test of the child and the parents. Aggrieved, this writ petition is filed seeking the following reliefs;

"i). issue a writ of mandamus or any appropriate writ, order or direction commanding the 1st and 2nd respondents to issue birth certificate of the child of the petitioners applied for by the 1st petitioner within a time limit fixed by this Hon'ble Court;



ii). Direct the respondents not to insist on the conduct of DNA test for proving the parentage of the petitioner's child for the purpose of issuing birth Certificate.”

2. Heard learned Counsel for the petitioners and the learned Government Pleader. The first respondent has not entered appearance, despite service of notice.

3. Going by the Exhibits, the marriage of the petitioners is certified as per Ext.P1 marriage certificate dated 16/02/2012. Ext.P2 is the certificate dated 27/04/2022, issued by the Medical Officer/Medical Practitioner of Family Health Centre, Cheranalloor, for production before the 2nd respondent's employer for availing maternity leave. Ext.P4 is issued from the St.Mary's Orthodox Cathedral, Pazhanji, certifying the date of birth of the petitioners' child as 26/06/2022. Ext.P5 is the Baptism Certificate dated 27/01/2023 issued from the St.George Orthodox Valiyapally, Ernakulam. In all these documents, the first petitioner is shown to be the father of the child.

4. The Registration of Births and Deaths Act, 1969 ('the Act' for short) was enacted with the objective of implementing a sound and unified system for registration of births and deaths in the country. As per section 7 of the Act, Registrars have been appointed



for every local area within the jurisdiction of a Municipality, Panchayat or other local authority. The third respondent is one such Registrar appointed. Sub section (2) of Section 7 requires the Registrar to enter in the register maintained for the purpose, all information given to him under Section 8 or Section 9 of the Act. Once the process of registration is completed, Section 12 makes it mandatory for the Registrar to issue an extract of the prescribed particulars relating to the birth or death to the person who gives the information under Section 8 or Section 9 of the Act.

5. Of course, Section 21 confers the Registrar with the power to require any person to furnish any information within his knowledge in connection with the birth or death in the locality where that person is residing. This power to call for information does not authorise the Registrar to conduct a roving enquiry through police or to compel the child and the parents to undergo a DNA test. While furnishing of false information is an offence punishable under Section 23(1)(b) of the Act, as per Section 23(2), the Registrar can be punished for neglect or refusal to register any birth or death occurring within his jurisdiction, without reasonable cause. A conjoint reading of the above provisions would show that the Registrar cannot delay the issuance of the birth certificate without reasonable cause. Mere suspicion, as is discernible from



Ext.P7 communication, is not the same as the reasonable cause mentioned in 23(2) of the Act.

For the aforementioned reasons, the writ petition is allowed and the third respondent is directed to process the application submitted by the first petitioner and take a decision thereon, strictly in accordance with law, within two weeks of receipt of a copy of this judgment.

Sd/-

V.G.ARUN

Judge.

dpk



APPENDIX OF WP (C) 447/2024

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE MARRIAGE CERTIFICATE ISSUED BY THE DEPARTMENT OF URBAN AFFAIRS DATED 16/02/2012
- Exhibit P2 TRUE COPY OF THE CERTIFICATE OBTAINED FROM THE FAMILY HEALTH CENTRE, CHERANALLOOR, ERNAKULAM DATED 27/04/2022
- Exhibit P3 TRUE COPY OF THE ACKNOWLEDGEMENT CARD ISSUED BY THE ASSISTANT SECRETARY EVIDENCING THE RECEIPT OF APPLICATION OF BIRTH CERTIFICATE
- Exhibit P4 TRUE COPY OF THE BIRTH CERTIFICATE DATED 11/02/2023
- Exhibit P5 TRUE COPY OF THE LETTER NO. SGOVPP 103/2023 CM NO.761 DATED 27/01/2023 ISSUED FROM THE ST. GEORGE ORTHODOX VALIYAPALLY, ERNAKULAM
- Exhibit P6 TRUE COPY OF THE STATUS OBTAINED FROM THE WEBSITE REGARDING THE STATUS OF APPLICATION
- Exhibit P7 TRUE COPY OF THE LETTER ISSUED FROM THE 2ND RESPONDENT DATED 06/12/2023
- Exhibit P8 TRUE COPY OF THE LETTER SENT TO THE 2ND RESPONDENT