

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

THURSDAY, THE 1<sup>ST</sup> DAY OF SEPTEMBER 2022 / 10 TH BHADRA, 1944

WP(C) NO. 28552 OF 2022

**PETITIONER:**

JEENAMOL VARGHESE,  
AGED 38 YEARS,  
D/O OF VARGHESE M.S.,  
MALAMAKKAL, PULLUPARA Murinjajapuzha P.O.,  
IDUKKI DISTRICT  
REPRESENTED BY POWER OF ATTORNEY HOLDER,  
VARGHESE M.S., AGED 64 YEARS, S/O.SCARIA, MALAMAKKAL,  
PULLUPARA, MURINJAJAPUZHA P.O., IDUKKI DISTRICT.

BY ADVS.  
BIJU .C. ABRAHAM  
THOMAS C.ABRAHAM

**RESPONDENTS:**

- 1 STATE OF KERALA,  
REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT  
OF BIRTHS AND DEATHS, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM 695001
- 2 THE REGISTRAR OF BIRTHS & DEATHS,  
AYYAPPAN COIL GRAMA PANCHAYAT, KUTTIKKANAM ROAD,  
KANCHIYAR, KATTAPPANA, IDUKKI DISTRICT - 685507  
REPRESENTED BY ITS SECRETARY.

BY ADV.  
SRI.V.K.SUNIL, SR.GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
01.09.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

Petitioner has approached this Court with the following prayers:

- “i) To issue a writ of mandamus or any other appropriate writ or order directing the 2<sup>nd</sup> respondent to correct the date of birth of the petitioner as 14/9/1984 instead of 21/9/1984 and the spelling of house name as ‘Malamakkal’ instead of ‘Maluwakkal’
- ii) Grant such other reliefs as this Hon’ble Court may deem just and proper in the interest of justice, including costs.”

2. This Petition is directed against the order dated 06.04.2022 Ext.P2 passed by the 2<sup>nd</sup> respondent - Ayyappan Coil Grama Panchayath in exercise of the power of the Registrar whereby the application of the petitioner for correction of date of birth from 21.09.1984 to 14.09.1984 has been rejected for the reason stated therein.

3. Petitioner is a citizen of India and working in USA for the past few years. Petitioner is stated to have born on 14.09.1984 which fact is evident from the school record, Aadhar card and Baptism Certificate. Since there

was a requirement to submit the birth certificate for the purpose of Green Card, approached the second respondent Registrar with aforesaid documents in proof of the correct date of birth, the request was rejected vide Ext.P2 for want of Gyneic Register of the hospital. The Gyneic Register was not available in the hospital and in lieu thereof, the certificate issued by the hospital authorities stating that the mother of the petitioner had delivered a female baby on 14.9.1984, was also submitted.

4. Learned counsel for the respondents submits that it was the duty of the Registrar to correct the birth certificate and has the power to do so. They would not be averse in holding an enquiry and correct the date of birth.

5. I have heard the learned counsel for the parties and appraised the paper book. The order impugned dated 06.04.2022 Ext.P2 reads thus:

“Upon the verification of the Birth Register No.131/1984 maintained in the Panchayat on your application the date of birth of the your, namely, Jeenamol Varghese is seen as 21/09/1984. The date of birth registered in the panchayath records as per the details given by authorized persons of the hospital where your child was born. For

making necessary correction in the birth register with regard to the date of birth of your daughter, the same can only be made after verifying the Gyneic register. Hence it is informed that the documents produced by you was not in force at the time of the birth of your daughter and the necessary corrections with regard to the date of birth of your daughter cannot be effected in the Birth Register.”

6. It would be appropriate to extract Section 15 and Rule 11 of the Act:

**Section 15- Correction or cancellation of entry in the register of births and deaths.-** If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.

**Rule 11- Correction or cancellation of entry in the register of births and deaths:-** (1) If it is reported to the Registrar that a clerical or formal

error has been made in the register or if such error is otherwise noticed by him the Registrar shall enquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or canceling the entry) as provided in Section 15 and shall send an extract of the entry showing the error and how it has been corrected to the State Government or the officer specified by it in this behalf.

(2) If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under section 15 upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case.

(3) Notwithstanding anything contained in sub-rule (1) and sub-rule (2) the Registrar shall make report of any correction of the kind referred to therein giving necessary details to the State Government or the officer specified in this behalf.

(4) If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been fraudulently or improperly made, he shall make a report giving necessary details to the officer authorized by the Chief Registrar by general or special order in this behalf under Section 25 and on hearing from him take necessary action in the matter.

(5) in every case in which an entry is corrected or

cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information under section 8 or section 9.

7. On joint reading of the aforementioned, if any such application is made for correction or cancellation of entry in the records of Registrar, the Registrar is required to hold an enquiry. It is the conceded position on record that the officer who passed the order would also exercise the powers of the Registrar. The application should not have been dismissed in the manner but should have been decided strictly as per the aforesaid provisions.

8. Accordingly, the impugned order Ext.P2 is quashed. Writ petition is allowed. The respondent No.2 is directed to correct the birth certificate taking the evidence of the petitioner in accordance with law ie., the provisions referred to above. Let this exercise be undertaken within a period of two months from the date of receipt of copy of this judgment.

This Court has come across that the Registrars, without adhering to the provisions of Section 15 and

Rule 11 of the Registration of Births and Deaths Acts, 1969 and the Rules framed thereunder, are rejecting the application based upon the record, whereas the request of the petitioner is for correction. The Government Pleader is directed to circulate the order of this Court to all the Registrars under the Municipality and the Grama Panchayat to follow the procedure to prevent spate of litigations in this Court wherein the applications are being rejected summarily.

**Sd/-**  
**AMIT RAWAL**  
**JUDGE**

**APPENDIX OF WP(C) 28552/2022**

**PETITIONER EXHIBITS**

|               |                                                                                                               |
|---------------|---------------------------------------------------------------------------------------------------------------|
| Exhibit P1    | TRUE COPY OF THE BIRTH CERTIFICATE<br>DATED 30/3/2022 ISSUED BY THE<br>REGISTRAR OF BIRTHS AND DEATHS         |
| Exhibit P2    | TRUE COPY OF THE LETTER BEARING<br>NO.JC3-558/2022 DATED 6/4/2022 ISSUED<br>BY THE 2ND RESPONDENT             |
| Exhibit P3    | TRUE COPY OF THE CERTIFICATE DATED<br>18/1/2022 ISSUED BY THE VELANKANNI<br>HOSPITAL, IDUKKI                  |
| Exhibit P4    | TRUE COPY OF THE AADHAAR CARD OF THE<br>PETITIONER'S DAUGHTER                                                 |
| Exhibit P5    | TRUE COPY OF THE BAPTISM CERTIFICATE<br>DATED 24/2/2019 ISSUED BY ST.GEORGE'S<br>CHURCH, AYYAPPANCOIL, IDUKKI |
| Exhibit P5(A) | TRUE COPY OF THE SSLC BOOK OF THE<br>PETITIONER                                                               |
| Exhibit P6    | TRUE COPY OF THE CLARIFICATION<br>CERTIFICATE DATED 9/7/2022                                                  |
| Exhibit P7    | TRUE COPY OF THE JUDGMENT DATED<br>27/07/2022 PASSED BY THIS HON'BLE<br>COURT IN W.P.(C)NO.17087/2022         |