

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7405 of 1997

LALITABEN W/O. SURESHBHAI PATEL

Versus

UNION OF INDIA

Appearance:

MR AJ SHASTRI for Petitioner

MS PROMILA SAFAYA for Respondent

CORAM : MR.JUSTICE M.S.SHAH

Date of Order: 31/03/98

ORAL ORDER

Rule. In the facts and circumstances of the case, the petition is taken up for final disposal today.

2. In this petition under article 226 of the Constitution, the petitioner Lalitaben wife of Sureshbhai Patel has prayed for an order directing the respondent Regional Passport Officer, Ahmedabad to correct the place of birth from Village Zervavra, Surat to Godadha village, sub-taluka Valod and the date of birth from 1st Jaunary, 1942 to 13th May, 1942 in the petitioner's pass-port.

3. It is stated in the petition that the petitioner is the daughter of Narayandas Patel alias Nanjibhai Durlabh Vavra, resident of Village Godadha and that the petitioner was born at the said village on 13.5.1942 as mentioned in the birth certificate issued by Mamlatdar, Valod, District : Surat. It is submitted that however, when the petitioner had applied for the passport through bonafide mistake the incorrect particulars were given and that is how the pass-port issued by the respondent earlier mentioned the place of birth and date of birth as stated above. When the petitioner pointed out the correct facts before the authority, the authority stated that the corrections, if any, can be carried out pursuant to an order of the competent court. The petitioner has now filed this petition under Article 226 of the constitution.

4. In response to the notice issued by this court, the respondent has appeared through learned Additional Standing Counsel Ms.Promila Safaya. The learned counsel

for the respondent stated that the respondent is not in a position to dispute the averments made in the petition as far as the particulars about the place of birth and date of birth mentioned in the petition are concerned but submits that no fault can be found with the authorities in as much as the previous passport was issued on the basis of the particulars given by the petitioner.

5. Having heard the learned Counsel for the parties, it appears to the Court that it would be just and proper to direct respondent - Regional Passport Officer, Ahmedabad to consider the petitioner's application for a fresh passport on the basis that the petitioner was born at Village Godadha, sub-taluka Valod on 13th May, 1942 as mentioned in the extract from the Register of birth issued by Mamlatdar, Valod at Annexure A to the petition. It is true that the petitioner's name is not mentioned in the birth certificate but the court can take judicial notice of the fact that in our society especially in the rural areas, the child is not given the name immediately after birth or within a short period thereafter but the name is given subsequently and in a large number of cases especially pertaining to the period when the petitioner was born i.e. 1942, the birth record maintained by the Public Authorities would not mention the name of the child. It is the assertion of the petitioner that the petitioner is the only daughter of her father who was born in 1942 and the Birth Registrar does mention that a female child of Nanjibhai Durlabh Vavra was born on 13.5.1942 at Village Godadha Sub-Taluka Valod.

6. In view of the above discussion, the petition deserves to be allowed but at the same time, since there was no fault on the part of the respondents authority in issuing the previous passport with the details earlier furnished, it would be just and proper to direct the petitioner to pay the respondent costs of this petition.

7. It is accordingly directed that the respondent shall consider the petitioner's application for a fresh passport on the basis that the petitioner was born at Village Godadha, District Surat, Sub-Taluka Valod on 13th May, 1942 as mentioned in the extract of the Register of Births of Village Godadha, Sub-Taluka Valod at Annexure A to the petition. The petitioner shall however pay the respondent costs of this petition which are quantified at Rs.1500/-. The costs shall be paid within a month from today.

8. Rule made absolute to the aforesaid extent.

(M.S.Shah, J)

jitu