

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11564 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

JAIWANTKUMAR RAMANLAL AMIN

Versus

MAMLATDAR DASKROI

Appearance:

1. Special Civil Application No. 11564 of 2003
MR MUKESH R SHAH for Petitioner No. 1
MR SG GORI, ASST. GOVERNMENT PLEADER for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 17/10/2003

ORAL JUDGEMENT

Rule. Service of rule is waived by learned
AGP Shri S.R. Gori for the respondent.

2. By way of this petition filed under Art. 226 of the Constitution of India, the petitioner has prayed for a direction that the respondent should accept an application for entering name of the petitioner as well as for making change in the surname of the petitioner in the Register of Births and Deaths maintained under the provisions of the Registration of Births and Deaths Act, 1969 (hereinafter referred to as 'the Act').

3. It is the case of the petitioner that name of the petitioner had not been entered in the Register of Births and Deaths when intimation with regard to the petitioner's birth was given to the Registrar under the Act. At that time word "boy" was entered in the Register.

4. When the petitioner had submitted an application to the respondent for making necessary change in the Register, the application had not been accepted on the ground that the respondent was not authorised to take any action after 15 years as per rule 11 of the Gujarat Registration of Births and Deaths (Amendment) Rules, 1985 (for short 'the Rules'). Learned advocate Shri M.R. Shah appearing for the petitioner has relied upon a judgment delivered by this court in the case of Dipika Arvidnkumar Pancholi v. State of Gujarat and Anr., 2003(1) G.L.H. 514 to substantiate his case that such a change in the Register can be made at any time upon payment of late fees.

5. On the other hand, the learned AGP ha submitted that according to the provisions of Rule 11 of the Rules, it is not open to the Registrar i.e. the Mamlatdar, to make any change in the Register of Births and Deaths after a period of 15 years and, therefore, the application submitted by the petitioner had not been entertained by the respondent.

6. I have heard the learned advocates and have also perused the relevant record and judgment delivered by by this court in the case of Dipika Arvindkumar Pancholi (supra).

7. In the said judgment, in para 15, this court has held that an application for making change in the name, etc. of the register of births and deaths can be entertained even after a period of 15 years upon payment of late fee of Rs. 2 or any amount, which might have been determined by the concerned authority.

8. Looking to the said judgment and the law laid down by this court, the petitioner is directed to submit a fresh application to the respondent so that the respondent can make necessary change in the Register in accordance with law. It is directed that the respondent shall accept and entertain the application as and when the petitioner submits it and shall do the needful for making necessary modification or changes in the Register of Births and Deaths upon payment of prescribed late fees by the petitioner as stipulated by this court in the aforestated judgment as soon as possible and preferably within a period of four weeks from the date of receipt of the application by the respondent.

The petition stands disposed of as allowed. Rule is made absolute with no order as to costs. D.S. permitted.

(A.R. Dave, J.)

(hn)