

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 3858 of 2018**

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HARDIKABEN MODI W/O NEHALKUMAR MODI AND D/O MAHESHKUMAR
MAFATLAL
Versus
PRANTIJ NAGARPALIKA

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Appearance:

MR NV GANDHI(1693) for the PETITIONER(s) No. 1

MR DEVRAJ B. SOLANKI, for the PETITIONER(s) No. 1

MR DEEPAK P SANCHELA(2696) for the RESPONDENT(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE A.J. SHASTRI**

Date : 30/04/2018

ORAL ORDER

1. The present petition under Articles 226 and 227 of the Constitution of India is filed for the purpose of seeking following reliefs :

"A. This Hon'ble Court may be pleased to issue writ of certiorari, or any other writ or order or directions and be pleased to quash and set aside the impugned decision communicated vide letter dated Nil bearing outward No.781-2017-18 and be further pleased to direct the respondent authority to carry out necessary corrections in their register of birth such as correction of birth date as '22.7.1987' AND

B. This Hon'ble Court may be pleased to pass such other and further orders may be deemed just

and proper in the facts and circumstances of the present case."

2. It is the case of the petitioner that petitioner through her mother had preferred an application to respondent authority on 12.2.2018, inter-alia, requesting to correct her date of birth from 27.7.1987 to 22.7.1987. The application was filed along with necessary documents, namely, Aadhar Card, PAN Card, School Leaving Certificate as well as the copy of the passport to indicate that correct date of birth is '22.7.1987'.

3. Though aforesid application was submitted along with all necessary documents, the authority, without granting any opportunity, has ordered to be filed the application and has not corrected the date of birth on the premise that there is no provision for the same and it is this communication (page-11) which is made the subject matter of present petition.

4. Mr.Devaraj B. Solanki, learned advocate appearing for the petitioner has contended that by virtue of Section 15 of the Registration of Birth and Deaths Act,1969, there is a power with the authority to correct the mistake which has been committed in record the date of birth and by interpreting Section 15 of the Act, this Court in a decision reported in 2008 (1) GLH 556 has observed that same can be corrected by the authority. Considering this decision, learned advocate for the petitioner has

contended that it is absolutely unjust on the part of respondent authority to discard the request of the petitioner without any just cause. It has also been contended that proper reasons are also not assigned while passing the impugned communication at page-11 and the reasons are the core of the order and reflects subjective satisfaction, if any. Since the same is missing, on this ground alone the impugned communication may be set aside, by appropriate writ, order or direction. No other submissions have been made.

5. To meet with the stand taken by learned advocate for the petitioner, Mr. Deepak Sanchela, learned advocate appearing for the respondent – Nagarpalika has contended that the order is passed keeping in view the jurisdiction available with the authority and there seems to be no irregularity of any nature in discarding the request. On the contrary, while passing the order the request of the petitioner has been dealt with and, therefore, it cannot be said that in no circumstance, the order is not justified. However, learned advocate in countenance to the decision delivered by this Court, has candidly submitted that if the petitioner is approaching the authority once again with the aforesaid decision and other valid documents, the authority will give a fresh look to the decision and reconsider the case of the petitioner. No other submissions have been made.

6. Considering this submission having been made, by

way of present ad invitum order, the petition stands disposed of on the following line, which would meet the ends of justice :

(1) The petitioner hereby is permitted to approach the respondent authority within a period of 2 weeks from today, with a request to correct the date of birth as demanded and along with such request, shall produce all necessary documents as has been pointed out in the petition including the copy of decision delivered by this Court reported in 2008 (1) GLH 556.

(2) Upon receipt of such material and request of the petitioner, the respondent authority is directed to reconsider the request of the petitioner in the light of the said material to be presented before it, without being influenced by impugned communication (page-11) and shall pass a fresh order after assigning valid reason and after giving an opportunity to represent the case to the petitioner.

(3) In view of such exercise, the impugned communication (Page-11) is quashed and set aside and the authority is directed to take a fresh decision in accordance with law on its own merit, within a period of 8 weeks from the date of receipt of request of the petitioner along with writ of this Court.

7. It is needless to state that this Court has not examined the merit or demerit of the grievance of the petitioner.

8. With aforesaid observations and directions, the present petition stands disposed of. Notice is discharged.

V.J. SATWARA

(A.J. SHASTRI, J)