

Matter of Rahman v New York City Dept. of Health & Mental Hygiene
2021 NY Slip Op 30182(U)
January 22, 2021
Supreme Court, New York County
Docket Number: 160628/2020
Judge: Eileen A. Rakower
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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Hon. EILEEN A. RAKOWER

PART 6

Justice

**IN THE MATTER OF THE APPLICATION OF
MOHAMMED RAHMAN and
JAHIDUR RAHMAN,**

**INDEX NO. 160628/2020
MOTION DATE
MOTION SEQ. NO. 1
MOTION CAL. NO.**

Petitioners,

**for leave to correct the records of
the Bureau of Vital Statistics,
New York City Department of Health
And Mental Hygiene,**

- against -

**NEW YORK CITY DEPARTMENT OF HEALTH AND
MENTAL HYGIENE,**

Respondent.

The following papers, numbered 1 to _____ were read on this motion for/to

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answer — Affidavits — Exhibits _____

Replying Affidavits

Cross-Motion: Yes X No

PAPERS NUMBERED

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Petitioners Mohammed Rahman and Jahidur Rahman (collectively, Petitioners”) bring this action pursuant to Article 78 of the New York Civil Practice Laws and Rules (“Article 78”), seeking the Court to compel Respondent the New York City Department of Health and Mental Hygiene (“Respondent”) to correct the Birth Certificate issued to Petitioner Jahidur Rahman, an adult, and Abidur Rahman and Habibur Rahman, minors. Respondent does not oppose the application.

Petitioners contend that Petitioner Mohammed is the father of Petitioner Jahidur Rahman who is over the age of 18 years old. Mohammed Rahman is also the father of the following minor children: Abidur Rahman and Habibur Rahman.

Petitioners assert that Petitioner Mohammed Rahman was born in the People’s Republic of Bangladesh on March 5, 1966. Petitioners contend that the United States is one of a few countries that use a date abbreviation system using the sequence MM/DD/YYYY (MM represents month, DD, represents day, and YYYY represents year). Petitioners further contend that the rest of the world uses a date abbreviation

system using the sequence DD/MM/YYYY. Petitioners argue that Petitioner Mohammed Rahman's birth certificate shows that he was born on 05/03/1966, which in Bangladesh is March 5, 1966. Petitioners assert that directly below the words that are written are "Fifth March Nineteen Hundred Sixty Six." Petitioners submit as Exhibit "F" a copy of Petitioner Mohammed Rahman's passport showing his date of birth as March 5, 1966.

Petitioners argue that Petitioner Mohammed Rahman moved to the United States from Bangladesh in or about 1984. Petitioner contend that in 1988, Petitioner Mohammed Rahman applied for a New York State Driver License and used his Bangladesh Birth Certificate. Petitioners assert that Petitioner Mohammed Rahman's driver license stated his birth date as May 3, 1966. Petitioners argue that they did not realize there was a problem with the birth date on Petitioner Mohammad Rahman's driver license until 2017 when he was told the problem with his driver license and his children's birth certificates.

Petitioners seek to make the following correction to Abidur Rahman's Birth Certificate:

Item 8b, Father's Date of Birth, to read "03/05/1966" instead of "05/03/1966."

Petitioners seek to make the following correction to Habibur Rahman's Birth Certificate:

Item 8b, Father's Date of Birth, to read "03/05/1966" instead of "05/03/1966."

Petitioners seek to make the following correction to Petitioner Jahidur Rahman's Birth Certificate:

Item 8b, Father's Date of Birth, to read "03/05/1966" instead of "05/03/1966."

Petitioners submit the following exhibits to the Petition: Petitioner Mohammed Rahman's driver's license (Exhibit "A"); Petitioner Jahidur Rahman's driver's license (Exhibit "B"); Abidur Rahman's birth certificate (Exhibit "C"); Habibur Petitioner Mohammed Rahman's birth certificate (Exhibit "E"); Nahidur Rahman's birth certificate (Exhibit "G"); and Petitioner Jahidur Rahman's birth certificate (Exhibit "H").

Respondent has no opposition. Respondent states that Petitioners have provided sufficient documentation to establish that Petitioner Mohammad Rahman's correct date of birth is March 5, 1966. Respondent contends that based on the evidence submitted, it does not oppose the instant applications, but is without authority to execute the proposed changes without a Court order.

Discussion

“Review of the governing regulation indicates that the granting of an application to amend a birth certificate requires some measure of discretion.” *Matter of Decamps ex rel. Cedeno v. New York City Dept. of Health*, 15 Misc 3d 1101(A) [Sup Ct, NY County 2007]. The New York City Health Code provides that “[t]he Commissioner or other personnel of the Department designated by him *may* approve the amendment of [a] birth ... certificate” (N.Y. City Health Code [24 RCNY] § 207.01[a] [emphasis added]). *Id.*

New York City Health Code, 24 RCNY § 207.01 provides for the correction of, among other things, birth certificates, and reads, in relevant part:

(a) ... Application for amendment of a birth certificate shall be made by the parents or surviving parent, or by the legal guardian of the person whose birth certificate is to be corrected or by the person if such person is 18 years of age or over.

(b) Every application shall be accompanied by supporting documentary evidence ...

(c) No application shall be approved unless the Commissioner or the Commissioner's designee is satisfied that the evidence submitted shows the true facts and that an error was made at the time of preparing or filing of the certificate ...

Here Petitioners provided Petitioner Mohammed Rahman's passport which shows that his date of birth is listed as March 5, 1966. Moreover, Petitioners have provided Petitioner Mohammed Rahman's Birth Certificate which states his date of birth “05-03-1996” but states right below his date of birth as “Fifth March Nineteen Hundred Sixty Six.” Petitioners have provided sufficient documentation to establish Petitioner Mohammed Rahman's date of birth. Petitioners have further provided sufficient documentation to establish that Petitioner Mohammed is the father of

Abidur Rahman, Habibur Rahman and Petitioner Jahidur Rahman by providing their Birth Certificates listing Petitioner Mohammed Rahman as the father. Furthermore, Respondent has stated that Petitioners have provided sufficient documentation and it does not oppose the application.

Wherefore it is hereby,

ORDERED AND ADJUDGED that the Petition is granted; and it is further

ORDERED that Petitioners request to correct Item 8B, Father's Date of Birth of Abidur Rahman's Birth Certificates to read "03/05/1966" instead of "05/03/1966" is granted; and it is further

ORDERED that Petitioners request to correct Item 8B, Father's Date of Birth of Habibur Rahman's Birth Certificates to read "03/05/1966" instead of "05/03/1966" is granted; and it is further

ORDERED that Petitioners request to correct Item 8B, Father's Date of Birth of Petitioner Jahidur Rahman's Birth Certificates to read "03/05/1966" instead of "05/03/1966" is granted; and it is further

ORDERED that Petitioners shall file a certified copy of this Order and Judgment with the New York City Department of Health and Mental Hygiene, which shall amend the official records pertaining to the aforesaid birth certificates in accordance with this Order and Judgment.

This constitutes the decision and order of the court. All other relief requested is denied.

Dated: January 22, 2021

ENTER: 
J.S.C.
HON. EILEEN A. RAKOWER

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION