

15.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8276/2009

CAJETAN JOHN FARIA Petitioner
Through Ms. Shawana Bari & Ms. Monika Garg,
Advocates.

versus

UOI & ANR. Respondents
Through Mr. Sachin Dutta, CGSC for UOI.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
24.09.2009

1. The respondents have refused to examine the question of change of date of birth in the passport on the ground that as per circular dated 29th October, 2007 the petitioner should obtain a declaratory order from the court of Judicial Magistrate, I Class. The petitioner has along with the petition filed copy of his school leaving certificate, driving licence and PAN card in which his date of birth has been recorded as 9.10.1966. The petitioner also relies upon date of birth certificate issued by Government of National Capital Territory of Delhi, in which again his date of birth has been mentioned as 9.10.1966. It is the contention of the petitioner that in the passport issued in 1998 his date of birth was wrongly mentioned as 9.10.1962. The original application form on the basis of which the said passport in 1998 was issued is not traceable.

2. It may be noted that the petitioner had cleared class XII examination in 1984 and if his date of birth is taken as 1962, he would be 22 years on the date when he passed the class XII examination.

3. On the question whether the petitioner should be compelled to obtain a declaratory order from the court of Judicial Magistrate, I Class, this Court in W.P. (C) No. 7387/2008 titled ***Pushpendra Singh Diwaniyan versus Union of India and Others*** has held that the said declaration is not required and the respondents can decide the issue and if they are satisfied, correct the date of birth in the subsequent passport or in the said passport. While issuing the said direction, the Court had relied upon decision of the Bombay High Court in ***Jigar Harish Shah versus Union of India***, AIR 2001 Bombay 60. Following the said decision, the respondents are directed to examine the claim of the petitioner for change of date of birth on merits.

4. It is clarified that this Court has not expressed any opinion on the merits of the claim of the petitioner for change of the date of birth. It is open to the respondents to accept or reject the claim on merits.

The writ petition is disposed of.

SANJIV KHANNA, J.

SEPTEMBER 24, 2009
VKR