

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

+ LPA NO. 783 OF 2010

Bhagwat Dayal Appellant
Through Mr. Avadh Bihari Kaushik, Advocate.

VERSUS

CBSE & ORS. Respondents.
Through Mr. Atul Kumar, Advocate for
respondents 1 & 2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

% **Order**
24.1.2011

The impugned order dated 20th October, 2010 dismisses the Writ Petition(Civil) No. 2352/2010 filed by the appellant Bhagwat Dayal for modification of his date of birth from 18th March, 1984 to 18th March, 1985 and name of his father in the 10th class Board Examination Certificate issued by Central Board of Secondary Examination (CBSE).

2. The learned counsel for the appellant has submitted that the said corrections are justified and the writ petition should have been allowed in view of decisions in *Km. Meenu vs. Director, CBSE* dated 3.1.2003 in

WP(C) NO. 5624/2002, *Para (Km.) vs. Director, CBSE*, 111(2004) DLT 573 and *Dhruva Parate vs. CBSE & Anr.* dated 23.3.2009 in WP(C) No. 3577/2008 and the unreported judgment of the Supreme Court delivered in Civil Appeal No. 5999/2010 titled *Manoj Kumar vs. Govt. of NCT Of Delhi*, dated 26.07.2010.

3. A similar issue was considered by a Division Bench of this Court in W.P.(C) No. 3774/2010 titled *Ms. Jigyaa Yadav (Minor) (through guardian/father Hari Singh) vs. C.B.S.E..* The High Court referred to bye-laws 69.1 of the CBSE Bye-laws which reads as under:-

“69.1 Changes and corrections in Name

- (i) No change in name/surname once recorded in the Board's records shall be made. However, correction in the name to the extent of correction in spelling errors, factual typographical errors in candidate's name/surname, father's name/mother's name or guardian's name to make it consistent with what is given in the school record or list of candidates (LOC) submitted by the school may be made.

Provided further that in no case, correction shall include alteration, addition, deletion to make it different (except as mentioned above) from the LOC or the school records.

- (ii) Application for correction in name/surname will be considered only within ten years of the date of declaration of result provided the application of the candidate is forwarded with the following documents:

- (a) Admission form(s) filled in by the parents at the time of admission.
- (b) The School Leaving Certificate of the previous school submitted by the parents of the candidate at the time of admission.
- (c) Portion of the page of admission and withdrawal register of the school where the entry has been made in respect of the candidate.

(iii) The Board may effect necessary corrections after verification of the Original records of the school and on payment of the prescribed fee.”

4. In the said case, the name of the parents as per the writ petition was incorrectly recorded in the school records and accordingly had been wrongly recorded in the certificate issued by the CBSE. The said writ petition was rejected after observing that the fault and error was of the petitioner’s parents themselves. They had repeatedly filed forms in which they had described and given their names. They alone were responsible for the error or mistake, if any. The aforesaid bye-laws were held to be reasonable. CBSE had recorded what was mentioned in the school records consistently. The parents of the child had option and liberty to rectify the records for more than 10 years i.e. till the child was studying in Class 10 but cannot contrary to bye-law 69.1 ask for amendment/ modification of their names recorded in the certificate.

5. The decisions of the learned Single Judge in case of ***Km. Meenu and Kumari Para*** (supra) cannot be relied upon in the present case. It may be noted here that this Court is not correcting or commenting upon the certificate issued by the Registrar of Births & Deaths under the Registration of Births & Deaths Act, 1969. Single judges in the said cases were dealing with the prior bye-laws, which did not have any specific bar or prohibition or fixed time limit. We are concerned with the Bye-laws 69.1 and 69.2 of the CBSE Bye-laws. Bye-law 69.1 of the CBSE Bye-laws has been quoted above. There is a bar/prohibition and a time limit has been fixed in the bye-laws. Bye-law 69.2 which deals with the change or correction of date of birth, reads as under:-

“69.2 Change/correction in Date of Birth

- i. No change in the date of birth once recorded in the Board's records shall be made. However, corrections to correct typographical and other errors to make certificate consistent with the school records can be made provided that corrections in the school records should not have been made after the submission of application form for admission to Examination to the Board.
- ii. Such correction in Date of Birth of a candidate in case of genuine clerical errors will be made under orders of the Chairman where it is established to the satisfaction of the Chairman that the wrong entry was made erroneously in the list of

candidates/application form of the candidate for the examination.

iii. Request for correction in Date of Birth shall be forwarded by the Head of the School along with attested Photostat copies of :

(a) Application for admission of the candidate to the School;

(b) Portion of the page of admission and withdrawal register where entry of date of birth has been made along with attested copy of Certificate issued by the Municipal Authority, if available, as proof of Date of Birth submitted at the time of seeking admission; and

(c) The school leaving Certificate of the previous school submitted at the time of admission.

iv. The application for correction in date of birth duly forwarded by the Head of school along with documents mentioned in Byelaws 69.2(iii) shall be entertained by the Board only within two years of the date of declaration of result of Class X Examination. No correction whatsoever shall be made on application submitted after the said period of two years.”

6. Bye-laws 69.1 and 69.2 were not examined in the case of **Km. Meenu** and **Km. Para** (supra). In the case of **Dhruva Parate** (supra), the petitioner therein had appeared in class 10 examination in 2006 and the writ petition was filed in the year 2008, for change of name from “Dhruva Pramod Parate” to “Dhruva Parate”. The said name was duly recorded by

the school authorities in the register on 25th May, 2006 and thereafter several requests and reminders were made, but the CBSE did not accede to the said request. Referring to Bye-law 69, it was stated that the change can be sought and granted within 2 years. The facts of the said case were, therefore, entirely different.

7. In *Manoj Kumar's case* (supra), the Supreme Court examined the case of the appellant who had been appointed as a Constable (Executive) in Delhi Police in May, 2007. He had given a date of birth which did not tally with the date of birth mentioned in the matriculation examination. His services were terminated. The appellant therein had filed a Civil Suit for correction of the date of birth mentioned in the matriculation certificate and the said suit against the Board of Education, Haryana was decreed. Order of dismissal from service was challenged before the Tribunal. The Supreme Court in paragraph 9 of the decision observed that as per the school records, till 6th standard, the appellant's date of birth was the same as declared at the time of selection in service. It was held that the appellant's date of birth shown the matriculation certificate was incorrect and erroneous, in view of the date of birth of appellant's sister. It was also noticed that Board of Education had corrected the date of birth which was erroneous. It was observed that the case in question could not be equated

with the cases of government servants who make requests/applications for change of date of birth at the tail end of their service.

8. In the present case, class 10 certificate is dated 3rd June, 2000. Thereafter, the appellant had appeared in the All India Secondary School Certificate Examination in the year 2003. At that time also, the appellant did not challenge or ask for change of the date of birth or the name of his father. The plea taken by the appellant that he could not observe the aforesaid mistake till January, 2010 when the appellant was appearing in Civil Services Examination has been rightly not accepted. The appellant had obtained a certificate from Health Department of Government of Haryana on 2nd February, 2010 and then had approached CBSE and his school. Learned single judge has further observed that notices were issued to three schools where the appellant had studied. One school had stated that records were not available; another school had stated that no student by the appellant's name was enrolled with them and the third school where the appellant was studying when he had appeared in 10th class examination, had enclosed copy of admission form dated 21st April, 1999, extract of the admission withdrawal register and the transfer certificate dated 31st March, 1999 issued by his previous school. In these documents, the date of birth was recorded as 18th March, 1984 and not 18th March,

1985. The appellant's father's name was mentioned as Bhim Singh and not Bhim Sain.

9. For the reasons stated hereinabove, we do not find any merit in the appeal and the same is dismissed with no orders as to costs.

SANJIV KHANNA, J.

CHIEF JUSTICE

**JANUARY 24, 2011
KKB**