

GAHC010096462018



THE GAUhati HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2954/2018

PANNA DEY
S/O DURGENDRA CHANDRA DEY
C/O JYOTI DAS
R/O KACHARIGAON, TEZPUR
DIST. SONITPUR, ASSAM

VERSUS

THE UNION OF INDIA AND 3 ORS.
THROUGH-
THE SECRETARY, TO THE GOVT. OF INDIA,
MINISTRY OF HUMAN RESOURCE DEVELOPMENT NEW DELHI.

2:THE DIRECTOR

NATIONAL INSTITUTE OF OPEN SCHOOLING NEW DELHI.

3:THE REGIONAL DIRECTOR

NATIONAL INSTITUTE OF OPEN SCHOOLING REGIONAL CENTRE
GUWAHATI BUILDING OF PUBLICATION BOARD

ASSAM

BAMUNIMAIDAN
NEAR ASSAM HIGHER SECONDARY SCHOOL COUNCIL

GUWAHATI - 781021
ASSAM

4:THE ASSISTANT DIRECTOR

NATIONAL INSTITUTE OF OPEN SCHOOLING REGIONAL CENTRE

GUWAHATI BUILDING OF PUBLICATION BOARD
ASSAM
BAMUNIMAIDAN
NEAR ASSAM HIGHER SECONDARY EDUCATION
COUNCIL
GUWAHATI - 781021
ASSA

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

19-06-2023

Heard Ms. U. Nanda, learned counsel for the petitioner. Also heard Ms. R. Bora, learned counsel appearing for the National Institute of Open Schooling (NIOS).

The matter pertains to correction of date of birth in the Mark-sheet issued by the NIOS on 07.10.2014 wherein the date of birth of the petitioner has been reflected as 11.01.1983.

The learned counsel for the petitioner has submitted that in June, 1986, due to pecuniary conditions, he had to leave his School, namely the Government Higher Secondary School, Seijosa. However, later on he appeared in the Secondary Examination held in April, 2014 from the NIOS. In the said certificate issued on 07.10.2014, as has been recorded above, his date of birth is stated to be 11.01.1983.

The learned counsel has submitted that though an application was made on 30.11.2016 for correction of date of birth, the same was rejected on the ground that no request would be accepted after 3 years from the date of registration.

While the requirement of making an application prior to 3 years of registration is not disputed, what has been argued is that the date of birth could be ascertained only on receipt of the Mark-sheet on 07.10.2014 and within 3 years the application for

correction was indeed made.

The learned counsel has based the claim of the petitioner upon two documents, the first being a Birth Certificate issued by the Department of Economics and Statistics, Govt. of Arunachal Pradesh wherein the date of birth of the petitioner has been stated to be 12.12.1973. The second document is the document referred above namely, the Transfer/School Leaving Certificate issued by the Government Higher Secondary School, Seijosa, Arunachal Pradesh.

Ms. Bora, the learned counsel for the NIOS submits that no fault can be attributed with the impugned order dated 18.01.2017 as under the Rules governing, an application for correction of date of birth has to be made within 3 years from the date of registration and in the instant case, the registration was done prior to 3 years from the date of application made on 30.11.2016. She further submits that the date of the Mark-sheet is not relevant and it is only the date of registration from which the period of 3 years is to be counted.

After hearing the learned counsel for the parties, this Court has however noticed that the entire basis of assailing the action of the respondent-NIOS in reflecting the date of birth of the petitioner as 11.01.1983 are two documents, namely, the Birth Certificate issued by the Government of Arunachal Pradesh and the Transfer/ School Leaving Certificate issued by the Government Higher Secondary School, Seijosa, Arunachal Pradesh.

Though the date of birth of the petitioner has been stated as 12.12.1973 in both the documents, what intrigues this Court is that both the documents were procured in the year 2016. While the Birth Certificate issued by the Department of Economics and Statistics, Government of Arunachal Pradesh was issued on 12.09.2016, the School Leaving Certificate by the Government Higher Secondary School, Seijosa, Arunachal Pradesh was issued on 26.07.2016. This Court therefore fails to comprehend as to how the challenge made for correction of date of birth can be on the basis of two documents which are later in point of time. There is no explanation in the writ petition

as to why there is such delay in procuring the certificates from the Department as well as from the earlier school.

Under those facts and circumstances, this Court is unable to accede to the prayer made in this writ petition and accordingly the same stands dismissed.

JUDGE

Comparing Assistant