

GAHC010208462021



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

Case No. : WP(C)/6626/2021

FIRDOSHI BEGUM @ FIRDUS ARA BEGUM
D/O MD. RAFIQUE AHMED
RESIDENT OF VILLAGE SARU DAMPUR (FAKIR SUPA)
PO DAMPUR, PS HAJO. DIST KAMRUP ASSAM

VERSUS

BOARD OF SECRONDARY EDUCATION, ASSAM AND 3 ORS.
BAMUNIMAIDAM, GUWAHATI 781021
REPRESENTED BY ITS CHAIRMAN

2:THE SECRETARY
BOARD OF SECONDARY EDUCATION
ASSAM
BAMUNIMAIDAM
GUWAHATI 781021

3:THE CONTROLLER OF EXAMINATION

BOARD OF SECONDARY EDUCATION
ASSAM
BAMUNIMAIDAM
GUWAHATI 781021

4:THE HEADMASTER
F.A SAIKIA GIRLS HIGH SCHOOL
DAMPUR
PO DAMPUR
DIST KAMRUP ASSA

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : SC, SEBA

B E F O R E

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

01.02.2023

Heard Mr. B Choudhury, learned counsel for the petitioner. Also heard Mr. T.C Chutia, learned counsel for the State respondent Nos. 1, 2 & 3.

2. The petitioner's case is that the petitioner had completed her schooling from F.A Saikia Girls High School, Dampur, P.O-Dampur, Kamrup (Assam) and as per her school record her date of birth was 01.01.1987. However, the date of birth given in the Admit Card issued by the Board of Secondary Education, Assam to the petitioner for taking part in the High School Leaving Certificate Examination, 2003 showed that the petitioner's date of birth was 01.01.1986. The High School Leaving Certificate Examination, 2003 issued by the Board of Secondary Education, Assam also showed the petitioner's date of birth as 01.01.1986.

3. The petitioner's counsel submits that the date of birth of the petitioner is actually 01.01.1987 and the petitioner thereafter submitted a representation dated 08.08.2021 to the respondent No. 2 for correction of her date of birth from 01.01.1986 to 01.01.1987. He submits that the affidavit of the respondent No. 4 (Headmaster of the School) is to the effect that the date of birth of the petitioner in the admission register is 01.01.1986. He further submits that in a similar matter, i.e. WP(C) No. 5255/2007, this Court had directed the Board of Secondary Education to re-consider the case of the petitioner therein for correction of his date of birth.

4. Mr. T.C Chutia, the learned counsel for the respondent Nos. 1, 2 & 3, on the other hand, submits that the petitioner had appeared in the High School Leaving Certificate Examination, 2003 wherein, her date of birth was recorded in 01.01.1986, as per the statement of particulars submitted by the Headmaster of F.A Saikia Girls High School, Dampur at the time of filling up of the High School Leaving Certificate Examination, 2003, which was also signed by the petitioner. He submits that the petitioner has now come after 18 years, after passing of her High School Leaving Certificate Examination in the year 2003, to make a challenge to her date of birth recorded by the Board of Secondary Education. He submits that there is no error or mistake done by the Board in recording the date of birth of the petitioner, as the date of birth of the petitioner was recorded on the basis of the statement made by the candidate and submitted by the Head of the Institution in 2003. Further, the petitioner had herself signed the statement showing her date of birth as 01.01.1986. He accordingly submits that the petition should be dismissed.

5. I have heard the submissions made by the learned counsels for the parties.

6. The facts of the case clearly show that though the petitioner had passed her High School Leaving Certificate examination in the year 2003 wherein, her date of birth was recorded as 01.01.1986, not only in the High School Leaving Certificate, but also on the Admit Card, the petitioner has now approached the authorities and this Court, after 18 years. Accordingly, there is laches and delay in approaching this Court.

7. In the case cited by the petitioner i.e. WP(C) No. 5255/2007 (*Sri. Prasanta K R Das vs. Board of Secondary Education & Ors.*), which was disposed of vide Order dated 23.01.2014, the petitioner's Admit Card issued by the Board of Secondary Education for taking part in the High School Leaving Certificate examination showed that his date of birth was 02.03.1975, while in the High School Leaving Certificate issued by the same authority, the date of birth of the petitioner therein was shown to be 26.02.1972. The petitioner, therein, had accordingly applied for correction of his

date of birth, as the same authority had recorded two different date of births in two different documents. This Court had accordingly directed the Board of Secondary Education to reconsider the case of the petitioner therein. However, in the present case, the Board of Secondary Education has recorded the same date of birth in both the documents issued to the petitioner and as such, the facts of this case are different from the facts in WP(C) No. 5255/2007. It is settled law that a decision is only an authority for what it decides and not what logically follows from it. A little difference in facts weakens the precedential value of a decision and in the view of this Court, the judgment & order passed in WP(C) No. 5255/2007 is not applicable to the facts of this case, as the facts are different in this case. Interestingly, no birth certificate is annexed by the petitioner in the present writ petition.

8. In view of the fact that the Board of Secondary Education has recorded the name of the petitioner in her Admit Card and in High School Leaving Certificate as 01.01.1986 and the petitioner has made a challenge to her date of birth after 18 years, this Court is not inclined to allow the writ petition due to delay and laches. However, as there are disputed questions of facts, keeping in view the affidavit of the respondent No. 4, the petitioner may approach the Ld. Civil Court with his grievance, if so advised.

9. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant