

Court No. - 10

Case :- WRIT - C No. - 9933 of 2021

Petitioner :- Vikrant Gangwar

Respondent :- State Of U P And 3 Others

Counsel for Petitioner :- Surendra Pal

Counsel for Respondent :- C.S.C.

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Surendra Pal, learned counsel for the petitioner, learned Standing Counsel for the respondents and perused the record.
2. Counter and rejoinder affidavits have been exchanged and, therefore, the writ petition is being finally decided.
3. By means of the present writ petition a writ of mandamus has been sought seeking a direction for Respondents No. 2 and 3 to decide the petitioner's representation dated 9.11.2020 for correction of his date of birth.
4. The case of the petitioner is that though he applied for correction in the date of birth in the High School certificate which class he had passed in the year 2016 and though the Principal forwarded the documents to the Board and the District Inspector of Schools also made a positive recommendation to correct the date of birth from 10.8.1998 to 10.7.1998, no order has been passed by the Board.
5. Learned Standing Counsel, while referring to the stand taken in the counter affidavit, submits that as per Regulation-7 of Chapter-III of Regulations framed under the U.P. Intermediate Education Act, 1921 read with the decision of this Court in the case of Anand Singh Vs. U.P. Board Secondary Education and others, 2014 (3) ADJ 443, if a claim is made beyond a period of three years after passing the concerned examination, the authorities are not bound to allow the same and since the petitioner did not file an application within three years from the passing of the High School examination, the Board is not under obligation to carryout the corrections.

7. The Court has perused the rejoinder affidavit, which is accompanied by some of the documents which form part of the record of the writ petition and some other documents including application forwarded by the Principal on 10.11.2016 to the Regional Secretary of the Board, Bareilly Region, Bareilly and also an undated format recommending correction as issued by DIOS, Pilibhit that was counter signed by the Principal of SRM Inter College, Bilispur, Pilibhit. A copy of affidavit dated 9.11.2016 filed by the petitioner is also on record and it appears that the said documents were sent to the Board in 2016 but no clear observation can be recorded and nothing can be inferred in this regard as there is no whisper about the same in the counter affidavit nor is there any finding to that effect in the order impugned.

8. Though it is true that the Board is not obliged to allow any claim beyond the period of limitation prescribed under the aforesaid regulations, subject to the condition that the Board is not at fault where period of limitation does not come in the way of correction, in the present case the only issue to be considered by the Board is as to whether the petitioner's documents and report of D.I.O.S. were received in the office of the respondent-Board within a period of three years.

9. There being disputed questions of facts with respect to service of documents in the year 2016 before the Board, this petition stands **disposed of** in the following terms:

(a) The petitioner shall file a certified copy of this order before the Respondent No. 2, Secretary, Madhyamik Shiksha Parishad, U.P. Allahabad along with all the documents which have been appended along with the writ petition and rejoinder affidavit within a period of four weeks from today.

(b) The authorities shall examine the fact as to whether the documents were received in the office of either Respondent No.2 or Respondent No.3 in the year 2016.

(c) Respondent No.2 shall call for a report from Respondent No. 3, Regional Secretary, Madhyamik Shiksha Parishad, Bareilly Mandal Bareilly regarding the documents appended along with the application which shall also be forwarded by the Respondent No.2

to the Respondent No.3.

(d) After receipt of report from the Respondent No. 3, the Respondent No.2 shall pass appropriate orders on the petitioner's application by the end of March, 2024.

(e) As soon as the order is passed by the Respondent No.2, the same shall be served upon the petitioner by the registered post.

Order Date :- 12.12.2023

Kumar Manish.