

Court No. - 52

Case :- WRIT - C No. - 1858 of 2016

Petitioner :- Neha Mishra

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Ravindra Prakash Srivasta

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Ravindra Prakash Srivastava, learned counsel for petitioner and Sri Dhananjai Singh, learned Standing counsel for State respondents.

2. Present petition has been filed seeking following reliefs:

"i) issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 8.7.2015 passed by Secretary, Madhyamik Shiksha Parishad, Uttar Pradesh Allahabad (Respondent no. 2) (Annexure-11 to the writ petition)."

3. It is contended that the petitioner has appeared in the High School examination in the year 2005 from Smt. Pyari Devi Girls Higher Secondary School, Rajajot Kala, Kaptanganj, Basti with Roll no. 1866828 and passed the same. It is further contended that when the petitioner received certified she found that her date of birth has wrongly been mentioned as 15.1.1987 in place of 15.7.1992.

4. Being aggrieved, petitioner has filed a representation dated 14.2.2016 before the Secretary, Madhyamik Shiksha Parishad, U.P. Allahabad (respondent no. 2) and Regional Secretary, Madhyamik Shiksha Parishad, Regional office, Varanasi with forwarding letter of Principal of college but nothing has been done. Petitioner again moved several representations before the concerned authority but when no action was taken by the authorities to consider her grievance, petitioner filed a Civil Misc. Writ Petition no. 2144 of 2015 before this Court wherein co-ordinate Bench passed order dated 11.2.2015 directing the petitioner to file a fresh representation along with recommendation of the Principal of College and certified copy of the order before Secretary, Madhyamik Shiksha Parishad, U.P. Allahabad. In case such a

representation is filed that may be considered within a period of three months.

5. In pursuance to the aforesaid order dated 11.2.2015, petitioner moved a representation before Secretary, Madhyamik Shiksha Parishad, U.P. Allahabad on dated 06.05.2015, which was rejected by respondent no. 2 vide order dated 08.07.2015 on the ground of delay, which impugned the present petition.

6. Learned counsel for petitioner also submitted that Principal of the aforesaid institution also issued a certificate on dated 14.02.2016 (available at Annexure no. 3 to the petition) mentioning therein that petitioner is a student of her college and she passed the High School examinations in the year 2005 but due to mistake her date of birth has been mentioned as 15.1.1987 in place of 15.7.1992 in the High School examination certificate and mark-sheet. In the registration form of the petitioner of class 9th in U.P. Board, her date of birth is correctly mentioned as 15.7.1992.

7. Learned Standing counsel vehemently opposed the prayer made in petition and submitted that impugned order dated 08.07.2015 is fully justified on the ground that petitioner moved representation after considerable delay which is barred by Regulation 7 of Chapter III (Part II-B) of the Secondary Education Regulations-1921 wherein only two years time period is stipulated for filing any representation for correction of date of birth in the certificate issued by the Board.

8. Learned counsel for petitioner also highlighted para 7 of the counter affidavit filed on behalf of respondent no. 2 and 3 wherein it is admitted by the respondents themselves that in the records of the Smt. Pyari Devi Girls Higher Secondary School, Rajajot Kala, Kaptanganj, Basti as well as in the registration form of class 9th of petitioner, date of birth of petitioner is mentioned as 15.7.1992 which is correct.

9. To support his arguments, learned counsel for petitioner, also relied upon several judgments rendered by this Court in the following cases:

i. Babu Ram Vs. State of U.P. & Another passed in Special Appeal no. 1202 of 2010 decided on 03.08.2010,

ii. Ajay Kumar Vs. Secretary, Secondary Education Board and 2 others passed in Writ C no. 71463 of 2013 decided on 13.1.2014 and,

iii Anand Singh vs. U.P. Board of Secondary Education and 2 others in

10. After hearing the rival submissions advanced by learned counsels for both the parties and after perusing the records, it is crystal clear that claim of petitioner is *bona fide* since in the registration form of class 9th of petitioner as well as in the certificate issued by Principal of the aforesaid institution, the date of birth is correctly mentioned as 15.7.1992 but due to clerical mistake on the part of the Board it has been wrongly mentioned as 15.1.1987 in the High School Examination certificate. It is not the case that the petitioner wants to get her age reduced by correction. Thus, the intention of petitioner does not appear to take undue advantage by moving such application.

11. Moreover, I am of the opinion that merely on account of delay, petitioner's case could not have been rejected on the ground of limitation prescribed under Regulation-7. The Hon'ble Supreme Court in case of ***B.T. Purushothama Rai v. K.G. Uthaya and others, (2011) 4 SCC 86***, has held that on the ground of limitation the right of *bona fide* persons cannot be destroyed. Relevant portion of the judgment, being paragraph-17, is quoted hereunder:

"17. On the question of limitation and delay this Court in N. Balakrishnan v. M. Krishnamurthy held that the purpose of the Limitation Act was not to destroy the rights. It is found on public policy fixing the life span for legal remedy for the general welfare. The primary function of a Court is to adjudicate between the parties and to advance substantial justice. The object of providing legal remedy is to repair the damage caused as a result of legal injury. If the explanation given does not smack of mala fides or is not shown to have been put forth as a part of a dilatory strategy, the court must show utmost consideration to the suitor."

12. After careful consideration of the submissions advanced by both the parties and the law laid down by this Court as well as Hon'ble Supreme Court in the judgments, referred above, impugned order dated 08.07.2015 passed by respondent no. 2 is hereby quashed and set aside. Respondent no. 2 (Secretary, Madhyamik Shiksha Parishad, Uttar Pradesh Allahabad) is hereby directed to correct the date of birth of the petitioner as 15.7.1992 in her mark-sheet and certificate of High School examination, as expeditiously as possible, preferably within a period of three months from the date of production of certified copy of this order.

13. Writ petition stands ***allowed*** accordingly.

Order Date :- 3.11.2023

Shaswat