

Court No. - 10

Case :- WRIT - C No. - 27369 of 2023

Petitioner :- Ashvani Kumar (Minor)

Respondent :- Commissioner Jawahar Navodaya Vidyalaya Samiti And 2 Others

Counsel for Petitioner :- Sushil Jaiswal, Praveen Yadav

Counsel for Respondent :- Rajesh Tripathi

Hon'ble Kshitij Shailendra, J.

1. Heard Sri Sushil Jaiswal, learned counsel for the petitioner and Sri Rajesh Tripathi, learned counsel for the respondents.

2. This Court passed the following order on 20.09.2023:-

"1. Learned counsel for the petitioner prays for dismissal of the writ petition as withdrawn.

2. I have perused the record of the writ petition and also order dated 24.08.2023 passed by this Court which is quoted hereinbelow:-

"1. The petitioner claims his date of birth as 03.11.2012 on the basis of certain documents, which have been annexed along with the writ petition and the grievance of the petitioner is that respondent No. 3 has, on the basis of age medically determined by the Chief Medical Officer, Prayagraj, found his age as 13 years and has cancelled the admission.

2. Shri Rajesh Tripathi, learned counsel for all the respondents submits that as per the rules applicable, if by the appearance of a candidate his age appears to be more than what has been recorded in the documents, respondents are competent that a candidate be medically examined for the purposes of the age determination.

3. While this Court is not prima facie satisfied by such submission subject to what final opinion is formed after perusal of the necessary material, a dispute has been raised with regard to annexure No. 7, which is a copy of birth certificate of the petitioner issued from the office of the Registrar (Birth and Death), Community Health Centre, Soraon, Prayagraj. Whereas the petitioner claims the document to be genuine, submission of learned counsel for the respondents is that on the basis of the communication entered into between the respondents and the Registrar (Birth and Death), Community Health Centre, Soraon, Prayagraj, the said certificate has not been issued from his office and not only the registration number has been wrongly mentioned, but also the signatures of the Registrar have been forged.

4. The petitioner is directed to implead Registrar (Birth and Death), Community Health Centre, Soraon, Prayagraj as respondent No. 4 during the course of the day.

5. *Learned counsel for the petitioner is directed to serve two copies of the writ petition in the office of learned Chief Standing Counsel during the course of the day.*
6. *Learned Standing Counsel shall obtain written instructions from the office of Registrar (Birth and Death), Community Health Centre, Soraon, Prayagraj with regard to genuineness of birth certificate annexed as Annexure No. 7 to the writ petition.*
7. *Put up this case as fresh on 20.09.2023.*
8. *In the meantime, Shri Rajesh Tripathi, learned counsel for respondents shall obtain written instructions from respondent Nos. 1 to 3.*
9. *Learned counsel for the petitioner shall also serve a copy of this order along with writ petition in the office of learned Chief Standing Counsel for necessary compliance."*
3. *It is clear from the perusal of the aforesaid order that the petitioner claimed reliefs on the basis of a Birth Certificate annexed as 'Annexure No.7' to the writ petition and when the dispute with regard to its genuineness was raised by Shri Rajesh Tripathi, learned counsel for the respondents, the Court directed impleadment of Registrar (Birth and Death), Community Health Centre, Soraon, Prayagraj as respondent no.4. Such an impleadment has been carried out in the writ petition, however, no copy of the writ petition was served in the office of learned Chief Standing Counsel as stated by learned Standing Counsel present in the Court.*
4. *Learned counsel for the petitioner while requesting the Court to dismiss the writ petition as not pressed admits that 'Annexure No.7' is a forged document and was obtained from a tout.*
5. *The Court cannot ignore the fact that Writ Jurisdiction has been invoked on the basis of a forged document, about which, there is statement from both the sides.*
6. *Let the deponent Tej Bahadur S/o Devta Deen R/o Rajapur Chaubara, Mukundpur, Prayagraj U.P. (father of minor petitioner) appear in-person before the Court on 18.10.2023 and file an affidavit showing cause as to why he may not be punished for the offense of perjury.*
7. *In the meantime, learned counsel for the petitioner shall serve the requisite copies of the writ petition in the office of learned Chief Standing Counsel who shall obtain instructions from the newly impleaded respondent no.4 regarding genuineness of 'Annexure No.7' to the writ petition.*
8. *Put up this case on 18.10.2023 as fresh."*
3. Pursuant to the said order, Sri Tej Bahadur S/o Devta Deen R/o Rajapur Chaubara, Mukundpur, Prayagraj U.P. (father of minor petitioner) has appeared in person.
4. An exemption application supported by affidavit has been filed.

5. The affidavit states the circumstances under which the petitioner, who is poor farmer, approached some counsel for preparation of birth certificate and whatever became available to him, he has filed along with this writ petition.

6. The exemption application is taken on record.

7. Though, it has been argued by Sri Sushil Jaiswal that on merits the petitioner has a case, considering the facts that a forged document was produced before the Court to obtain relief, the Court is not inclined to entertain the claim on merits and, at the same time, forgives the petitioner's father with a warning that the forged document shall not be used in any proceedings and **in case the same comes to the notice of any court or authority, Tej Bahadur shall face criminal prosecution.**

8. As prayed, the writ petition is **dismissed as withdrawn.**

Order Date :- 18.10.2023

AKShukla/-