

Court No. - 10

Case :- WRIT - C No. - 29053 of 2023

Petitioner :- Km. Vineeta

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Sheetala Prasad Pandey

Counsel for Respondent :- CSC

Hon'ble Kshitij Shailendra,J.

1. Heard Sri S.P. Pandey, learned counsel for the petitioner and Sri R.P. Tiwari, learned Standing Counsel for the respondents no.1, 2 and 3.

2. In view of the office report dated 29.11.2023, service of notice upon the respondent no.4 is held to be sufficient.

3. No one has put in appearance on behalf of the respondent no.4 and, therefore, the Court proceeds to decide the matter finally.

4. The date of birth of the petitioner as recorded in the School Leaving Certificate issued by the Basic Education Board as well as in the Transfer Certificate and also progress chart is 15.07.1999.

5. The grievance of the petitioner is that on account of mistake committed by the respondent-Board, the admit card issued for High School Examinations held in 2014 mentions an incorrect date of birth as 15.07.1919 and on account of this, erroneous date of birth stands entered in the High School Marks-sheet appended along with the supplementary affidavit.

6. A writ of mandamus has been sought directing the respondent authorities to correct the date of birth of the petitioner as 15.07.1999.

7. Sri R.P. Tiwari, learned Standing Counsel submits that as per Chapter 3 Rule 7 of the Regulations framed under the U.P. Intermediate Education Act, 1921, such a claim for correction can be entertained only when it is laid by the candidate concerned within a period of three years from the date of passing of the concerned examinations and, therefore, the petitioner's claim has now become barred by limitation. However, Sri Tiwari very fairly submits that such a grave error where in place of 1999, year 1919 stands mentioned in any record including the High School Certificate, the period of limitation would not be of much

significance and this Court can deal with the situation in the peculiar facts and circumstances of the case.

8. As of now, the Board has not passed any order on the petitioner's application and irrespective of the fact that the petitioner may or may not have agitated her claim before the Board and may be that the application has been moved very recently in June, 2023, in the peculiar facts and circumstances of the case, this Court feels that issuance of a direction to consider the petitioner's claim may become an exercise in futility as in case the petitioner's claim is rejected on the ground of limitation in view of the aforesaid Regulation, further rounds of litigation would come before this Court.

9. In view of the above, the writ petition is **allowed** in the following terms:-

(i) The petitioner is permitted to file a fresh application along with certified copy of this order and all the necessary documents before the respondent no.3 (Regional Secretary, Madhyamik Shiksha Parishad, Uttar Pradesh at its Regional Office, Gorakhpur) within a period of **three weeks from today**.

(ii) The respondent no.3 shall verify the documents and shall forward the report to the respondent no.2 (Board of Madhyamik Shiksha Parishad, Uttar Pradesh at Allahabad through its Secretary) **in the month of January, 2024**.

(iii) The respondent no.2 (Board of Madhyamik Shiksha Parishad, Uttar Pradesh at Allahabad through its Secretary) shall carry out the requisite correction in the High School Marks-sheet of the petitioner incorporating the date of birth as 15.07.1999 and shall issue the original marks-sheet to the institution.

(iv) The respondents no.2 and 3 before undertaking the exercise, shall summon the report from the Principal of the Institution.

(v) The entire exercise shall be completed by the respondent no.3 **before 28.02.2024**.

(v) The petitioner is at liberty to contact the institution for corrected mark-sheet as and when it is issued by the Board.

Order Date :- 30.11.2023
AKShukla/-