

GAHC010098502023



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

**Case No. : WP(C)/2568/2023**

MINAKSHI DAS  
WIFE OF- KISHORE KUMAR BARMAN,  
RESIDENT OF - HOUSE NO. 58, BONGAON ROAD (ANIL PHUKAN PATH),  
LAKSHMI MANDIR, GUWAHATI- 781028.

VERSUS

THE BOARD OF SECONDARY EDUCATION, ASSAM AND 3 ORS.  
BAMUNIMAIDAM, GUWAHATI- 781021,  
REPRESENTED BY THE SECRETARY,  
BOARD OF SECONDARY EDUCATION, ASSAM.

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

3:THE CONTROLLER OF EXAMINATIONS  
BOARD OF SECONDARY EDUCATION  
ASSAM  
BAMUNIMAIDAM  
GUWAHATI- 781021.

4:THE MEDICAL SUPERINTENDENT (JT. DHS) AND REGISTRAR OF BIRTHS  
AND DEATHS  
GANESH DAS GOVERNMENT M AND CH HOSPITAL

SHILLONG  
MEGHALAYA.

5:HEADMASTER

BENGALI GIRLS HIGHER SECONDARY SCHOOL  
PALTAN BAZAR  
GUWAHAT

**Advocate for the Petitioner** : MR. S BANIK

**Advocate for the Respondent** : SC, SEBA

**BEFORE**  
**HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

**Judgment & Order(Oral)**

**Date : 06.05.2024**

Heard Mr. S. Banik, learned counsel for the petitioner. Also heard Mr. T. C. Chutia, learned Counsel along with Mr. D. K. Roy, learned Standing Counsels for the Board of Secondary Education Assam (SEBA) representing the respondents no. 1, 2 & 3.

None has appeared for the respondents nos. 4.

**3.** As consented to by the learned counsels appearing for the parties, the present proceeding is taken up for final consideration and disposal.

**4.** The petitioner, by way of instituting this writ petition has prayed for a direction upon the respondent authorities of the SEBA for effecting a correction in her HSLC records pertaining to the date of birth as recorded therein, basing on the application as submitted by her in the matter on 06.12.2022.

**5.** The petitioner is working as a Senior Assistant in the Office of the

Conservator of Forests, Research and Education Circle, Basistha, Assam and had joined her said services on 03.02.1993. The petitioner while joining her services had relied upon her Admit card issued by the SEBA for the HSLC, Examination 1980. In the said Admit card, the petitioner's age was recorded as 15 years 7 months and 15 days as on 01.03.1980 and accordingly, her date of birth would be 16.07.1964.

**6.** As projected in the writ petition, after the death of her father on checking his belongings, the petitioner, on 20.05.2020, came to discover a document dated 03.07.1965, issued by the authorities of Ganesh Das Hospital for Women and Children, Shillong, wherein, it has been noted that her mother had given birth to a female child on 24.06.1965 at around 1.45 pm. It is further contended in the petition by the writ petitioner that on discovery of the said document, which she contends to have recorded her birth, the petitioner post Covid-19 Pandemic, approached the Hospital authorities in the year 2022, requesting them to verify the correctness of the details indicated in the said documents dated 03.07.1965. The Hospital authorities on 18.11.2022 issued to the petitioner the certificate confirming that the mother of the petitioner had given birth to a female child on 24.06.1965 at around 1.45 pm as per the birth record maintained in the institution. The petitioner further contends that having received the information of her date of birth to be 24.06.1965 and on receipt of the certificate dated 08.11.2022 from the Hospital authorities, the petitioner on 06.12.2022 approached the Secretary, SEBA, praying for correction of her date of birth as recorded in her HSLC records and for issuance of a fresh certificate by incorporating her now contended to be correct date of birth. The authorities of the SEBA, not having acted upon the said

application dated 06.12.2022, the petitioner has instituted the present proceedings praying for an appropriate direction to the respondent authorities for correction of her date of birth as recorded in her HSLC records maintained by the SEBA.

**7.** Mr. Banik, learned counsel for the petitioner by relying upon the certificate dated 08.11.2022 has contended that the same having been so issued from the records maintained by the Hospital authorities and the same having been issued by an authority competent to issue the said certificate, the respondent authorities ought to have taken the same into consideration and corrected the mistake with regard of her date of birth as recorded in her Admit card pertaining to the HSLC Examination, 1980. Mr. Banik, learned counsel for the petitioner, for the purpose of explaining the delay occasioning in approaching the authorities of SEBA, in praying for correction of the date of birth of the petitioner, has contended that the fact that the petitioner was born on 24.06.1965 was not to her knowledge and the same came to be discovered by her only pursuant to the death of her father occasioning on 20.05.2020. Mr. Banik, learned counsel for the petitioner has contended that the details of her birth now available in the form of certificate issued by the Hospital authority and therein, she having been denoted to have been born on 24.06.1965, there being no dispute with regard to the said date of birth of the petitioner, the authorities of SEBA ought to have given the same, its due consideration and proceed to rectify the erroneous date of birth of the petitioner as recorded in her HSLC records.

**8.** Mr. Banik, learned counsel for the petitioner has further contended

that the present writ petition has been instituted only for the purpose of effecting the correction in the date of birth of the petitioner in her HSLC records maintained by the SEBA and the same is not for effecting any correction of her date of birth as recorded in her service records, for which, it is contended that the petitioner would be taking appropriate steps as may be mandated in the matter.

**9.** In support of his submission, Mr. Banik, learned counsel has relied upon the decision of the Hon'ble Supreme Court in the case of *Jigyada Yadav v. Central Board of Secondary Education*, reported in (2021) 7 SCC 535. Mr. Banik, learned counsel submits that the prayer as made by the petitioner for correction of her date of birth being so based on a public document, in view of the conclusions as reached by the Hon'ble Supreme Court in the case of *Jigyada Yadav* (supra), the authorities ought to have a due consideration to the prayer as made by the petitioner.

**10.** Mr. T. C. Chutia, learned counsel along with Mr. D. K. Roy, learned Standing Counsel representing the SEBA have by referring to the affidavit filed in the matter on behalf of the said respondents contended that in terms of the age as recorded in the Admit card in the petitioner's HSLC Examination held in the year 1980, her date of birth is 16.07.1964. It is contended that by relying upon the contemporaneous records as available in the matter that recording of the age of the petitioner in her matriculation certificate, more particularly, her said Admit card was so effected basing on the particulars as submitted in the matter by the school authorities, wherein, the age of the petitioner as on 01.03.1980 was reflected as 15 years 7 months and 15 days. Accordingly, the learned

Standing Counsel for the SEBA, submits that the application as made by the petitioner in the matter having been so made after a period of 42 years from the date of passing her HSLC Examination, 1980, the same exceeds the time frame as prescribed by the regulations of the SEBA authorities.

**11.** In support of his submissions, Mr. Chutia, learned counsel has relied upon the decision of the Hon'ble Supreme Court in the case of *SEBA Vs. Md. Sarifuz Zaman and Ors.*, reported in (2003) 12 SCC 408.

**12.** I have considered the submissions of the learned counsels appearing for the parties and also perused the materials available on record.

**13.** At the outset, it is noted that the petitioner had not disputed that her date of birth as recorded in her HSLC Examination, 1980 records was not questioned by her or her parents at any time proximate to the issuance of the same. The petitioner had also not disputed the position that she had joined her services in the Office of the Conservator of Forests, Research and Education Circle, Basistha, Assam by relying upon the date of birth as revealed from her HSLC records. The petitioner has further contended that her father had expired on 20.05.2020 only. The petitioner has also not further contended in the writ petition that her initial induction into the school was not so effected by her parents and or, that her actual date of birth was not so disclosed to the school authorities and/or that the same was erroneously recorded in the school records. The petitioner has also not disputed the contentions as raised by the authorities of SEBA in the affidavit filed by them in the matter, wherein, it was categorically stated that the age as recorded of the petitioner in her Admit card issued in the

HSLC Examination, 1980 was so recorded basing on the particulars as submitted by the Headmaster of the school wherein, the petitioner was studying at the relevant point of time.

**14.** Having noticed the above position, it is now required to examine the contention made by the petitioner that as per the Admit card issued to the petitioner in relation to the HSLC Examination, 1980, her date of birth is recorded as 15 years 7 months 15 days, basing on which she can be said to be born on 16.07.1964 is erroneous. The petitioner, in the writ petition has prayed for correction of her date of birth in her HSLC records basing on the purported discoveries of the particulars revealed in the birth Register maintained by the Ganesh Das Hospital for Women and Children, Shillong, basing on which, the petitioner has contended her date of birth to be 24.06.1965. The certificate in this connection was received by the petitioner from the office of the Medical Superintendent (Jt. DHS) and Registrar of Births and Deaths, Ganesh Das Government M&CH Hospital, Shillong on 08.11.2022. Thereafter, the petitioner had on 06.12.2022 approached the Secretary, SEBA, praying for issuance of a corrected HSLC Admit card and Pass certificate with her corrected date of birth.

**15.** Perusal of the said application dated 06.12.2022, would reveal that the petitioner had not relied upon the certificate dated 08.11.2022, issued by the Hospital authorities but, had in her said application prayed for correction of her date of birth as "16.07.1966" i.e. purportedly, basing on the records maintained in the school, wherein the petitioner had pursued her studies.

**16.** Although in the writ petition, the petitioner has now prayed for

correction of her date of birth from 16.07.1964 to 24.06.1965, but, the application dated 06.12.2022, would reveal that the petitioner herein had made a prayer for correction of her date of birth as "16.07.1966" and not as "16.07.1965".

**17.** Accordingly, insofar as the petitioner is concerned, from the records, it is evident that three dates of birth existed i.e. 16.07.1964 as per the records of her HSLC Examination, 1980; 24.06.1965 as per the certificate issued by the Hospital authorities on 08.11.2022 and 16.07.1966 as per the said application dated 06.12.2022.

**18.** On a pointed query made by this Court to the learned counsel for the petitioner as to whether in spite of being in possession of the certificate dated 08.11.2022 and therein, her date of birth having been recorded as 24.06.1965, the petitioner, while subsequently making the application dated 06.12.2022 before the SEBA authorities, had requested for correction of her date of birth as "16.07.1966" and not "16.07.1965", Mr. Banik, learned counsel has fairly submitted that he has not got any valid reply on the same from the petitioner. The conduct of the petitioner as evident from the communication dated 06.12.2022, reveals that as she is advancing towards the verge of retirement is trying to extend her service tenure, purposefully.

**19.** The contentions made in the application dated 06.12.2022, are not supported by any public records and it is to be noted that in the writ petition, the petitioner has not contended why in the application dated 06.12.2022, before the SEBA authorities she had prayed for correction of the date of birth as "16.07.1966". She had also thereafter not proceeded

to bring to the notice of the said authorities, the contents of the certificate dated 08.11.2022.

**20.** The decision as relied upon by the learned counsel for the petitioner in the case of Jigya Yadav(supra) would not advance the case of the petitioner inasmuch as the prayer as made for correction of her date of birth as 16.07.1966 is not supported by any public document.

**21.** Further, such application was so made after around 42 years from the date she had appeared for her HSLC Examination. Accordingly, the non-consideration of the said application of the petitioner dated 06.12.2022 by the SEBA authorities cannot be said to be erroneous.

**22.** The Hon'ble Supreme Court in the case of Md. Sarifuz Zaman(supra) had upheld the regulations of the SEBA in this connection and held that the three years' time period of the regulations for the students in effecting corrections in his/her HSLC certificate was sufficient period of time to notice any error existing in the entries made therein and accordingly, the period of three years as provided in the regulations for effecting any correction in the recording as made in the HLSC certificate was held to be quite reasonable.

**23.** It was further held that the prescription of three years is laying down of a dividing line before which the power of the Board to make correction ought to be invoked and beyond which it may not be invoked. The conclusions as reached by the Hon'ble Supreme Court in the matter being relevant are extracted herein below:-

“12. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit

of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone. There ought to be a limit of time by which human affairs stand settled and uncertainty is lost. Regulation 8 confers a right on the applicant and a power coupled with an obligation on the Board to make correction in the date of birth subject to the ground of wrong calculation or clerical error being made out. A reasonable procedure has been prescribed for processing the application through the Inspector of Schools who would verify the school records and submit report to the Board so as to exclude from consideration the claims other than those permissible within the framework of Regulation 8. Power to pass order for correction is vested on a high functionary like Secretary of the Board. An inaccuracy creeping in at the stage of writing the certificates only, though all other prior documents are correct in all respects, is capable of being corrected within a period of three years from the date of issuance of certificate.

13. Three-year period provided by the Regulation, is a very reasonable period. On the very date of issuance of the certificate, the student concerned is put to notice as to the entries made in the certificate. Everyone remembers his age and date of birth. The student would realise within no time that the date of birth as entered in the certificate is not correct, if that be so, once the certificate is placed in his hands. Based on the certificate the applicant would seek admission elsewhere in an educational institution or might seek a job or career where he will have to mention his age and date of birth. Even if he failed to notice the error on the date of issuance of the certificate, he would come to know the same shortly thereafter. Thus, the period of three years, as prescribed by Regulation 3, is quite reasonable. It is not something like prescribing a period of limitation for filing a suit. The prescription of three years is laying down of a dividing line before which the power of the Board to make correction ought to be invoked and beyond which it may not be invoked. Belated applications, if allowed to be received, may open a Pandora's box. Records may not be available and

evidence may have been lost. Such evidence even convenient evidence may be brought into existence as may defy scrutiny. The prescription of three years' bar takes care of all such situations. The provision is neither illegal nor beyond the purview of Section 24 of the Act and also cannot be called arbitrary or unreasonable. The applicants seeking rectification within a period of three years form a class by themselves and such prescription has a reasonable nexus with the purpose sought to be achieved. No fault can be found therewith on the anvil of Article 14 of the Constitution.”

**24.** The application of the petitioner having been so made after a huge lapse in the time frame as prescribed in the Regulation i.e. more than 42 years after she had appeared in the HSLC Examination, the said application does not mandate to be directed to be considered by the authorities of SEBA and accordingly, the prayer of the petitioner in this connection does not mandate acceptance. Further, the conduct of the petitioner in making a prayer before the authorities to correct her date of birth as “16.07.1966”, purportedly, basing on the school documents, the same having been categorically disputed by the SEBA authorities by filing affidavit in the matter and the same not being controverted by the petitioner, the said prayer of the petitioner cannot be accepted. Further, the conduct of the petitioner having been submitted an application before the SEBA authorities praying for correction of her date of birth as “16.07.1966” and thereafter, preferring this writ petition for such correction as “24.06.1965”, basing on the certificate dated 08.11.2022, the said certificate having not incorporated in the application dated 06.12.2022 would also not merit any consideration by this Court.

**25.** In the facts and circumstances involved, it having been noticed that

the petitioner having not approached this Court with clean hands, this Court, in its exercise of the powers conferred under Article 226 of the constitution of India, would not be inclined to issue a writ in the nature of mandamus, directing the authorities of SEBA to consider the application as so preferred by the petitioner in the matter.

**26.** In view of the conclusion reached, this Court is of the considered view that the contentions raised by the petitioner in the writ petition, does not merit any acceptance and accordingly, the writ petition is held to be devoid of any merit and the same stands dismissed, however, there would be no order as to costs.

**JUDGE**

**Comparing Assistant**