



IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

Principal Seat at Guwahati

Case No. WP(C)/5826/2022

1. Smti. Anju Rani Baishya Das,
Aged about 55 years,
W/o- Sri Ranjeet Kumar Das,
R/o- Arbinda Complex, Ward No. 06,
Barpeta Road, P.O. & P.S. Barpeta,
Dist.- Barpeta, Assam, PIN- 781315,
Presently residing at Ministers Colony,
Assam, Dispur, Ghy-781006.

.....Petitioner

-Versus-

1. The State of Assam,
Represented by the Chief Secretary
to the Government of Assam,
Dispur, Ghy-781006.
2. The Secretary,
Board of Secondary Education, Assam,
Bamunimaidam, Ghy-21.

3. The Principal/Headmaster,
Pub-Bahjani Gopalnath Balika Vidya Mandir,
P.O. Janigog via Nalbari,
Dist.- Nalbari, Assam, PIN- 781334.

.....Respondents

- B E F O R E -

HON'BLE MR. JUSTICE ROBIN PHUKAN

Advocate for the petitioner : Mr. J. Kalita.

Advocate for the respondents : Mr. P. Saikia, for respondent No. 1;
Mr. T.C. Chutia, for respondent No. 2;
Mr. R. Sarma, for respondent No. 3.

Date of hearing : **20.09.2024**

Date of judgment : **22.10.2024**

JUDGMENT & ORDER (CAV)

Heard Mr. J. Kalita, learned counsel for the petitioner and Mr. P. Saikia, learned Government Advocate for the respondent No. 1. Also heard Mr. T.C. Chutia, learned Standing counsel for the respondent No. 2, SEBA and Mr. R. Sarma, learned counsel for the respondent No. 3.

2. In this petition, under Article 226 of the Constitution of India, the petitioner, namely, Smti. Anju Rani Baishya Das has prayed for

issuing direction to the respondent authorities to correct her age in her High School Leaving Certificate (HSLC) pass certificate No. 8937 of 1982 with Roll F-39, No. 236 as 16 years as on 01.03.1982, instead of 17 years 2 months 21 days, as reflected in the said certificate with reference to the office communication dated 26.05.1984 and the letter, dated 16.12.2020, issued by the office of the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, Nalbari. Alternatively, it is also prayed for recalling the order dated 04.04.2022, passed by the Secretary, Board of Secondary Education, Assam ('SEBA', for short) and to consider the prayer of the petitioner for correction of her date of birth in academic testimonials issued by the SEBA, in accordance with reference to the communication dated 26.05.1984 and the letter dated 16.12.2020.

3. The background facts, leading to filing of the present petition, are briefly stated as under:

"The petitioner was a student of Pub-Bahjani Gopalthan Balika Vidya Mandir of Nalbari district and she had cleared the HSLC examination in the year 1982, conducted by SEBA with Roll F-39, No. 236. But, in her academic testimonials i.e. HSLC Admit Card and Pass Certificate, the age of the petitioner was reflected as 17 years 2 months 21 days on 01.03.1982, however, the actual age of the petitioner was 16 years on 01.03.1982. Thereafter, the petitioner approached the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir by submitting an application with a prayer for correction of her

age as 16 years as on 01.03.1982, instead of 17 years 2 months 21 days as on 01.03.1982. Pursuant to the said application, the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, vide letter No. P.B.G.V.M./HSLC/12/350-351, dated 26.05.1984, submitted to the Secretary of SEBA that the actual age of the petitioner is 16 years on 01.03.1982. But, SEBA is sitting over the matter without taking any action in respect of correction of date of birth of the petitioner till date.

Thereafter, the petitioner again approached the SEBA on 05.12.2019, by submitting a representation with a prayer for correction of her date of birth with reference to the letter dated 26.05.1984 of the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir. But, the said representation had failed to evoke any response from the Secretary, SEBA. Thereafter, the petitioner had submitted a representation before the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir on 05.11.2020, for authentication of the letter, dated 26.05.1984, and the present Headmaster of the said school, vide letter dated 16.12.2020, authenticated the same, and thereafter she had submitted the same to the Secretary, SEBA. However, no action was taken upon the same by the Secretary, SEBA.

Thereafter, the petitioner had approached this Court by filing a writ petition, being WP(C) No. 3698/2020, and the said

writ petition was disposed of by this Court by directing the Secretary, SEBA to pass a reasoned order on the representation dated 05.12.2019, submitted by the petitioner and it was also observed that the petitioner would submit a fresh representation before the SEBA for adjudication of the matter and accordingly, the petitioner had submitted a fresh representation to the Secretary, SEBA on 15.11.2021. But, without considering the actual facts and without going through the office communication dated 26.05.1984 and 16.12.2020, the Secretary, SEBA had disposed of the representation dated 15.11.2021, in illegal and arbitrary manner on 04.04.2022.”

4. Being aggrieved, the petitioner has approached this Court by filing the present petition on the ground that in the order, dated 04.04.2022, no where it is reflected that the Headmaster of P.B.G.V.M. School was heard and that the order was passed mechanically without going through the record and on such count the order dated 04.04.2022, is mala-fide and unfair and thereby violated her right, guaranteed by Article 14, 16 and 21 of the Constitution of India.

5. The respondent No. 2, has filed affidavit-in-opposition denying the averments made in the petition. It is stated that the date of birth of the petitioner was recorded in the office of SEBA on the basis of application duly signed by the candidate/petitioner and on the basis of particulars of the statement submitted by the School

Authority at the time of filling up of forms for HSLC examination, 1982 and the age of the petitioner was recorded as 17 years 2 months 21 days as on 01.03.1982 i.e. her date of birth is 10.12.1964 and the same was recorded on the basis of the particulars of candidate including age, date of birth submitted by the concerned school only and that the application dated 26.05.1984, allegedly submitted by the petitioner could not be located in the office of the SEBA, the reason being the application was either not received or misplaced, for which the same was not attended. It is also stated that the application submitted by the petitioner on 05.12.2019, for correction of date of birth has been received by SEBA, but, in the year 2017, SEBA has introduced the online submission of application for correction of particulars including age, date of birth in HSLC documents, but the petitioner has submitted an application for correction of her age through registered post only, which is not as per SEBA's norms. It is further stated that it could not be ascertained whether the letter dated 26.05.1984, was available in the office of the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir. Further, it is stated that speaking order dated 04.04.2022, has been passed pursuant to the direction of this Court in WP(C) No. 3698/2020, and thereafter, necessary verification was carried out and the Inspector of Schools, Nalbari, vide letter dated 29.03.2022, was requested to collect and send necessary admission register, available with the said school, having mention of date of birth of the petitioner, when she got admitted in lower classes of the said school. The Inspector of

Schools, vide his letter dated 30.03.2022, forwarded the school admission register of the said school, which indicates that at the time of her admission in Class-VIII in the said school, the date of birth of the petitioner was recorded as 10.12.1964, and accordingly, at the time of HSLC examination, 1982, the concerned Headmaster of the said school provided the date of birth of the petitioner as 10.12.1964, in the statement of particulars of the candidate/petitioner submitted before SEBA and SEBA has correctly recorded the same and issued HSLC examination related documents to the petitioner.

6. The respondent No.3, the Headmaster, Pub-Bahjani Gopalthan Balika Bidya Mandir, Nalbari has filed affidavit-in-opposition stating that the petitioner was a student of said school and she had appeared in HSLC examination conducted by the Board of Secondary Education Assam in the year 1982. She was admitted at Class-VIII on 16.03.1978 and in the School Admission Register her date of birth was recorded as 10.12.1964, and her age, as on 16.03.1978 was recorded as 13 years 3 months 6 days, and as per Admission Register of the School the age of the petitioner, as on 1st March, 1982 was 17 yrs 2 months 21 days. It is also stated that he had verified the School records regarding issuance of the letter No. P.B.G.V.M./HSLC/12/350-351 dated 26.05.1984 issued by the then Head Master, but could not find any record in School in forwarding the said letter to the Secretary, Board of Secondary Education, Assam. It is also stated the petitioner had, on 05.11.2020, submitted an application stating that she was a student

of the School who had passed HSLC Examination in 1982, and her age as on March, 1982 was given increasing one year three months and the then Headmaster, Late Rama Nath Sharma had communicated to SEBA for correction of age and one copy of that application was with her, and therefore, requested to authenticate the said application so that she can submit the same in the court. And along with the said application she had submitted a copy of the letter dated 26.05.1984 issued by the then Headmaster, attested by the Superintendent of Taxes, Guwahati Unit on 03.12.2019, and on the request of the petitioner he has authenticated the said application, but he did not certify the contents of the said letter dated 26.05.1984 issued by the then Head Master, and on verification of the School record he had not found record as regard issuance of the said letter No. P.B.G.V.M./HSLC/12/350-351 dated 26.05.1984 issued by the then Head Master. It is also stated that as asked by the Inspector of Schools, Nalbari District Circle, he had furnished the School Admission Register to him and that there was no any arbitrary or any illegal action on his part to violate the right of the petitioner.

7. The petitioner has filed her reply to the affidavit-in-opposition of respondent No.2 asserting that her date of birth was 10.12.1965, and she had filed an application for correction of date of birth to the then Head Master, P.B.G.B.V.M. vide letter No. P.B.G.V.M./HSLC/12/350-351, dated 26.05.1984, had forwarded to the Secretary, SEBA, for correction of her date of birth stating that her actual age was 16 years on 1st of March 1982. It is also stated that

the authority of SEBA has not maintained the file properly and could not locate the letter and for its negligence the petitioner's date of birth could not be corrected and she has been suffering for the same. It is also stated that pursuant to order of this court dated 10.11.2021 in WP(C) No. 3698/2020 the SEBA Authority was directed to dispose of the representation filed by the petitioner if necessary to hear the Headmaster of P.B.G.V.M. School, but in the order dated 04.04.2022 no where it is reflected that the Headmaster of P.B.G.V.M. School was heard and that the order was passed mechanically without going through the record and on such count the order dated 04.04.2022 is mala-fide and unfair.

8. The petitioner has also filed affidavit-in-reply to the affidavit-in-opposition filed by the respondent No.3. It is stated that the stand of the respondent No.3 that on the request of the petitioner he has authenticated the application filed by the petitioner being true copy of the letter dated 26.05.1984, but he did not certified the contents of the said letter, and that on verification of the School record he had not found record as regard issuance of the said letter No. P.B.G.V.M./HSLC/12/350-351 dated 26.05.1984 issued by the then Head Master is self contradictory and that she was admitted in Class-V, not in Class-VIII as stated by respondent No.3. It is also stated that the respondent No.3 did not contest the WP(C) No. 3698 of 2020, and that in the order dated 04.04.2022 no where it is reflected that the Headmaster of P.B.G.V.M. School was heard.

9. It is also to be noted here that the petitioner has filed an additional affidavit bringing on record the order dated 04.04.2022,

passed by the Secretary, SEBA as Annexure-10, and copy of the letter dated 26.05.1984 issued by the then Head Master addressing the Secretary, SEBA and her Janam-Kundali as Annexure-11 and 12.

10. Mr. J. Kalita, learned counsel for the petitioner, submits that the petitioner had cleared the HSLC examination in the year 1982, conducted by SEBA with Roll F-39, No. 236, from Pub-Bahjani Gopalthan Balika Vidya Mandir of Nalbari. In her HSLC Admit Card and Pass Certificate, her age was reflected as 17 years 2 months 21 days on 01.03.1982. But in fact her age was 16 years on 01.03.1982. The petitioner then submitted an application to the Headmaster of said School for correction of her age as 16 years as on 01.03.1982, and the Headmaster then vide letter No. P.B.G.V.M./HSLC/12/350-351, dated 26.05.1984, submitted to the Secretary of SEBA that the actual age of the petitioner is 16 years on 01.03.1982, but, the said letter had failed to evoke any response from SEBA till date. Mr. Kalita also submits that the petitioner again approached SEBA on 05.12.2019, by submitting a representation with a prayer for correction of her date of birth with reference to the letter dated 26.05.1984 of the Headmaster. As the same also yield no result, the petitioner had approached the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir on 05.11.2020, for authentication of the letter dated 26.05.1984, and the present Headmaster of the said school, vide letter dated 16.12.2020, authenticated the same. But, the Secretary, SEBA had taken no action thereby compelling the petitioner to file WP(C) No. 3698/2020, which was disposed of by this Court by directing the

Secretary, SEBA to pass a reasoned order on the representation dated 05.12.2019. The petitioner had submitted a fresh representation to the Secretary, SEBA on 15.11.2021. Mr. Kalita submits that without considering the actual facts and without going through the letter dated 26.05.1984 and 16.12.2020, the SEBA authority had disposed of the representation dated 15.11.2021, vide order dated 04.04.2022. According, to Mr. Kalita the authority of SEBA had disposed of the representation in an illegal and arbitrary manner and as such the respondent No.2 may be directed to correct the date of birth of the petitioner pursuant to letter dated 26.05.1984. Mr. Kalita also submits that the respondent No.2 may be directed to recall the order dated 04.04.2022 and to consider the prayer of the petitioner for correction of her date of birth.

11. Per contra, Mr. T.C. Chutia, learned Counsel for the respondent No.2 has vehemently opposed the petition. Mr. Chutia, referring to a Notification No. SEBA/EXAM/54 dated 29th September, 1975 submits that the SEBA has fixed time limit for filing an application for correction of date of age, name, title etc from the date of commencement of Examination concerned and on expiry of the same no application shall be entertained. Referring to another Notification, No. SEBA/EXAM/55 dated 29th September, 1975, Mr. Chutia submits that once age is reported by the Headmaster to the Board along with the application for final examination and entered in the records of the Board, it will not be altered except on the ground of wrong calculation or clerical error for which an application with the recommendation of the Headmaster will have to be made

to the Board through the Inspector of Schools concerned who will verify the record and submit a report to the Board and then the Secretary of the Board may pass orders if he is satisfied that there was wrong report of the age due to wrong calculation or clerical error.

11.1. Mr. Chutia also submits that under Sub-section (1) of Section 24 of the Assam Secondary Education Act, 1961 the Board may frame its regulations generally for the purpose of carrying out the provisions of the Act, and Regulation 8 provides for correction of date of birth, name, title etc. and as per said Regulation once the date of birth is reported by the heads of the recognized high school/high madrasa/higher secondary school to the Board in the prescribed statement of candidates along with the application for the examination and entered in the records of the Board, it will not be altered except on grounds of wrong calculation or clerical error for which an application with the recommendation of the head of the institute will have to be made to the Board through Inspector of Schools concerned who will verify the school records and submit report to the Board. The Secretary of the Board may pass orders for correction if he is satisfied that there was wrong report of the date of birth due to wrong calculation or clerical error, and as per proviso to the said regulation if any inaccuracy creeps in at the stage of writing the certificates, all other prior documents being correct in all respects, correction in the certificate will be admissible if the application is received within three years from the date of issue of certificate by the Board with necessary fees.

11.2. It is the further submission of Mr. Chutia that on the basis of application duly signed by the petitioner and on the basis of particulars of the statement submitted by the school authorities at the time of filling up of forms for HSLC examination, 1982 and the age of the petitioner was recorded as 17 years 2 months 21 days as on 01.03.1982 i.e. her date of birth is 10.12.1964 and the same was recorded in the office of SEBA. Mr. Chutia further submits that the SEBA has never received the letter dated 26.05.1984. It is the further submission of Mr. Chutia that in the year 2017, SEBA has introduced the online submission of application for correction of age, date of birth in HSLC documents, but petitioner has filed an off-line representation on 05.12.2019, for correction of date of birth, which is not in accordance with SEBA's norms.

11.3. Mr. Chutia also submits that pursuant to the direction of this Court in WP(C) No. 3698/2020, and on account of failure to produce any supporting document by the petitioner, the School Admission Register was collected through the Inspector of Schools, Nalbari, which reveals that at the time of her admission in Class-VIII in the Pub-Bahjani Gopalthan Balika Vidya Mandir of Nalbari and her date of birth was recorded as 10.12.1964. Mr. Chutia further submits that at the time of HSLC examination, 1982, the Headmaster of the said school had shown the date of birth of the petitioner as 10.12.1964 in the particulars of the petitioner submitted before SEBA and as such there is infirmity in recording the date of birth and age of the petitioner in her HSLC testimonials. Mr. Chutia further submits that the petitioner, in order to derive service benefit, at the fag end of

her service, had filed the petition for correction of age which is impermissible and contrary to several decisions of Apex Court and therefore, it is contended to dismiss the petition.

11.4. Mr. Chutia has referred the following decisions in support of his submission:-

- (i) Maharashtra State Board of Secondary and Higher Secondary Education & Anr. vs. Paritosh Bhupeshkumar Sheth & Ors. Reported in (1984) 4 SCC 27;
- (ii) Board of Secondary Education Assam (SEBA) vs. Md. Sarifuz Zaman & Ors. Reported in (2003) 12 SCC 408;
- (iii) Bharat Cooking Coal Ltd. 7 Ors. Vs. Shyam Kishor Singh reported in AIR 2020 SC 940;
- (iv) State of U.P. & Anr. vs. Shiv Narain Upadhyia reported in (2005) 6 SCC 49;
- (v) State of Maharashtra & Anr vs. Gorakhnath Sitaram Kamble & Ors. reported in (2010) 14 SCC 423.
- (vi) Surjeet Singh Sahni vs. State of U.P. reported in (2022) 15 SCC 536;

12. On the other hand Mr. P. Saikia, learned counsel for the respondent No.1 and Mr. R. Sharma, learned counsel for the respondent No.3 have subscribed the submission of Mr. Chutia, the learned counsel for the respondent No.2.

13. In view of the pleadings of the parties and the contentions made at the time of hearing by learned Advocates of both sides, the issue, to be decided by this court is:-

“Whether the impugned order, No. SEBA/GEN/SUIT/ 40/20/61, dated 04.04.2022, so passed by the respondent No.2, where by the representation dated 05.12.2019, filed by the petitioner, for correction of her dated of birth, was dismissed, is arbitrary and illegal and thereby violates the right of the petitioner ?”

14. I have carefully gone through the pleadings of the parties and the documents placed on record and also gone through decisions referred by Mr. Chutia, learned counsel for the respondent No.2 and the Regulation and Notifications placed before this court at the time of hearing.

15. It is not in dispute that the Board of Secondary Education Assam (SEBA) is constituted under the Assam Secondary Education Act, 1961. Sub-section (1) of Section 24 of the said Act empowers the Board to make regulations generally for the purpose of carrying out the provisions of the Act. Regulation 8, so framed provides for correction of date of birth, name, title etc. In respect of date of birth it provides as under :-

“Once the date of birth is reported by the heads of the recognised high school/high madrassa/higher secondary school to the Board in the prescribed statement of candidates along with the application for the examination and entered in the records of the Board, it will not be altered except on grounds of wrong calculation or clerical error for which an application with the recommendation of the head

of the institute will have to be made to the Board through Inspector of Schools concerned who will verify the school records and submit report to the Board. The Secretary of the Board may pass orders for correction if he is satisfied that there was wrong report of the date of birth due to wrong calculation or clerical error.”

The proviso to said Regulation, further provides as under:-

“If any inaccuracy creeps in at the stage of writing the certificates only, all other prior documents being correct in all respects, correction in the certificate will be admissible if the application is received within three years from the date of issue of certificate by the Board with necessary fees.”

16. It also appears from the Notification No. SEBA/EXAM/54, dated 29th September, 1975, which was placed before the court at the time of argument by the learned counsel for the respondent No.2, indicates that the SEBA has fixed time limit for filing an application for correction of date of age, name, title etc. from the date of commencement of examination concerned and on expiry of the same no application shall be entertained.

17. Further, from the Notification, No. SEBA/EXAM/55 dated 29th September, 1975, it appears that once age is reported by the Headmaster to the Board along with the application for final

examination and entered in the records of the Board, it will not be altered except on the ground of wrong calculation or clerical error for which an application with the recommendation of the Headmaster will have to be made to the Board through the Inspector of Schools concerned, who will verify the record and submit a report to the Board and then the Secretary of the Board may pass orders if he is satisfied that there was wrong report of the age due to wrong calculation or clerical error.

18. A conjoint reading of the aforesaid Regulation and the two Notifications referred herein above indicates that an application for correction of date of birth has to be addressed to the Secretary, SEBA, within three years of the examination concerned. On expiry of three years no application shall be entertained. The application will have to be made to the Board, with the recommendation of the Headmaster through the Inspector of Schools concerned, who will verify the record and submit a report to the Board and then the Secretary of the Board may pass orders. When the age of a student is entered in the record of the Board on the basis of report of the Headmaster along with the application for final examination, it will not be altered except on the ground of wrong calculation or clerical error. The Secretary may pass order for correction if he is satisfied that there was wrong report of the date of birth due to wrong calculation or clerical error.

19. In the case in hand, the petitioner has passed the HSLC Examination in the year 1982. She had appeared in the said

Examination from Pub-Bahjani Gopalthan Balika Vidya Mandir of Nalbari district, with Roll F-39, No. 236. In her academic testimonials i.e. HSLC Admit Card and Pass Certificate, her age was reflected as 17 years 2 months 21 days on 01.03.1982. It is not in dispute that the said date was entered in the record of the Board on the basis of the report of the Headmaster of the Pub-Bahjani Gopalthan Balika Vidya Mandir of Nalbari submitted in the prescribed statement of the petitioner along with the application for the examination.

20. But, the pleaded case of the petitioner is that her actual age, as on 01.03.1982, was 16 years. The petitioner then approached the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir by submitting an application with a prayer for correction of her age as 16 years on 01.03.1982, instead of 17 years 2 months 21 days on 01.03.1982. Upon the said application, the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, vide letter No. P.B.G.V.M./HSLC/12/350-351, dated 26.05.1984, submitted to the Secretary of SEBA that the actual age of the petitioner is 16 years on 01.03.1982. This exercise appears to be made within the stipulated period of three years from the concerned examination. There is no dispute on this point.

21. But, the application made by the petitioner is not placed on record. What is placed on record is a letter of Pub-Bahjani Gopalthan Balika Vidya Mandir, Nalbari addressed to the Secretary, SEBA, dated 26.05.1984. In the said letter, the Headmaster has

stated correct age of the petitioner was wrongly calculated while she appeared in at HSLC Examination under the Board. Thereafter, her Roll No. and year of passing and her age entered in the Admit Card and her actual age to be corrected is mentioned. Nowhere in the said letter, had the headmaster ever mentioned the basis of such recommendation. This court is unable to derive satisfaction that the petitioner had made the approach complying with the requirement of Regulation 8, as referred herein above. Notably, the requirement of the said Regulation is that *an application with the recommendation of the head of the institute will have to be made to the Board through Inspector of Schools concerned who will verify the school records and submit report to the Board*. Firstly, there is no application of the petitioner as required by the Regulation. Secondly, the letter of the Headmaster though appears to be routed through the Inspector of Schools yet, no proof whatsoever is placed on record about routing the same through the Inspector of Schools of concerned district. Thirdly, no material is placed on record that the Inspector of Schools had ever verified the School record and submitted report to that effect to the Board. Fourthly, no proof is placed on record about receipt of the letter of the Headmaster, dated 26.05.1984, by the SEBA (respondent No.2). In its affidavit, respondent No.2 had denied receipt of the same. But, the petitioner has alleged that the respondent No.2 is sitting over the said letter. Thus, it appears to be disputed question of fact. And in exercising

writ jurisdiction, such disputed question of fact cannot be decided by this court.

22. It also appears that having failed to evoke any response in respect of the letter of the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, dated 26.05.1984, the petitioner had filed another representation to the respondent No.2 on 05.12.2019, for correction of her date of birth with reference to the letter dated 26.05.1984. This representation also received no response from the respondent No.2. Then the petitioner had submitted a representation before the respondent No.3 i.e. the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir on 05.11.2020, for authentication of the letter dated 26.05.1984, and the respondent No.3, vide letter dated 16.12.2020, authenticated the same. The petitioner then submitted the same to the respondent No.2 and the same also failed to yield any result.

23. Then being left with no option the petitioner had approached this Court by filing writ petition, being WP(C) No. 3698/2020, and the said writ petition was disposed of by this Court by directing the Secretary, SEBA to pass a reasoned order on the representation dated 05.12.2019, submitted by the petitioner and it was also observed that the petitioner would submit a fresh representation before the SEBA for adjudication of the matter and accordingly, the petitioner submitted a fresh representation to the Secretary, SEBA on 15.11.2021.

24. The respondent No.2 then disposed of the representation dated 15.11.2021, by passing a reasoned order dated 04.04.2022. The pleaded case of the petitioner is that in an illegal and arbitrary manner and without considering the actual facts and without going through the office communication dated 26.05.1984 and 16.12.2020, the SEBA authorities disposed of the representation dated 15.11.2021 and thereby violated her right guaranteed by Articles 14, 16 and 21 of the Constitution of India.

25. A careful perusal of the impugned order dated 04.04.2022, so passed by the respondent No.2 indicates that vide said order the respondent No.2 had disposed of the representation dated 15.11.2021, in compliance with the direction of this court dated 10.11.2021, in WP(C) 3698/2020. The impugned order indicates that though this court had directed her to submit other documents to substantiate her claim, the petitioner had not submitted any document along with her representation dated 15.11.2021, to the respondent No.2, except however a copy of the letter of the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, dated 26.05.1984. Then she was asked to submit any document in support of her date of birth and age for passing a reasoned order vide letter dated 10.03.2022. Then the petitioner had informed vide her letter dated 23.03.2022, that she had already submitted all her documents available with her. But, except photo copy of the letter of the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, dated 26.05.1984, she had submitted nothing.

25.1. It is also apparent that thereafter, the respondent No.2 had written a letter to the Inspector of Schools, Nalbari dated 29.03.2022 to collect and send the School Admission Register available with the said School with the date of birth of the petitioner and when she got admitted in the lower class of the said school, and accordingly, the Inspector of Schools, Nalbari District Circle had collected the School Admission Register and vide letter dated 30.03.2022 had forwarded the same duly signed by the Headmaster of concerned School and countersigned by the Inspector of Schools, Nalbari, and after perusal of the same it was found that at the time of her admission in Class-VIII in the Pub-Bahjani Gopalthan Balika Vidya Mandir of Nalbari , her date of birth was recorded as 10.12.1964. And the respondent No. 2, having checked the record available in the office of the Board against Roll F-39, No. 236 of HSLC Examination, 1982 and found her date of birth recorded in the same as 10.12.64, which count her age as 17 yrs. 2 months 21 days as on 01.03.1982. The said date of birth of the petitioner was furnished by the Headmaster, Pub-Bahjani Gopalthan Balika Vidya Mandir of Nalbari at the time of filling up the form for HSLC Examination, 1982 as 10.12.1964. That being so, no clerical error leaving scope for correction for date of birth of the petitioner and accordingly, passed the impugned order.

26. Though the petitioner had branded the impugned order as illegal and arbitrary, as it violates her right guaranteed under Article 14, 16 and 21 of the Constitution of India, yet she had failed to justify how the same is illegal and arbitrary. It appears that before

passing the impugned order, the respondent No.2 had asked the petitioner to furnish any document in support of date of birth. Admittedly, she had failed to produce any document except a photocopy of the letter of the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, dated 26.05.1984. Before passing the order she was given reasonable opportunity to produce relevant documents. Despite getting such opportunity and despite direction of this court in WP(C) 3698/2020, she had failed to do so. Thus, the principle of natural justice has undoubtedly been complied with. As the petitioner had failed to produce any document in support of her date of birth, the respondent No.2 had collected the School Admission Register from the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, through the Inspector of Schools, Nalbari District Circle and on verification found the date of birth of the petitioner as 10.12.1964, and the same is found to be consistent with the record available in the office of the Board against Roll F-39, No. 236 of HSLC Examination, 1982, which also reveals that her date of birth recorded in the same as 10.12.64, which count her age as 17 yrs. 2 months 21 days as on 01.03.1982. That being so, there is no scope for branding the impugned order as illegal or unreasonable.

27. It is to be noted here that in the case of **Sharma Transport v. Govt. of A.P., reported in (2002) 2 SCC 188**, Hon'ble Supreme Court, while dealing with arbitrariness has held in paragraph No.25 as under:-

"25.

..... The expression "arbitrarily" means : in an unreasonable manner, as fixed or done capriciously or at pleasure, without adequate determining principle, not founded in the nature of things, non-rational, not done or acting according to reason or judgment, depending on the will alone."

28. Again in the case of **Union of India & Ors. vs. Dinesh Engineering Corpn. & Anr.**, reported in **AIR 2001 SC 3887**, it has been held by the Hon'ble Supreme Court that:-

"Any decision be it a simple administrative decision or a policy decision, if taken without considering the relevant facts, can only be termed as an 'arbitrary decision' and it will be violative of the mandate of Article 14 of the Constitution."

29. In the case in hand, having tested the impugned order dated 04.04.2022, on the touchstone of the principles aforesaid, this court finds no element of arbitrariness or unreasonableness in the same. In the given factual background and on account of failure on the part of the petitioner to produce any supporting document to establish her date of birth as claimed by her, the finding so arrived at by the respondent No.2 is the most reasonable and plausible order and as such the same requires no interference of this court.

30. Notably, the petitioner in her additional affidavit has enclosed a photocopy of her Janam-Kundali as Annexure-12. Perusal of the same indicates that her date of birth was 1st March, 1966. But, this photo copy of the document is found to be too tenuous to grant the

relief, being sought for in this petition. And most importantly this document i.e. Annexure-12, was not produced before the respondent No.2, before the impugned order, dated 04.04.2022, came to be passed.

31. Thus, having considered the submissions of learned Advocates of both sides in the light of given facts and circumstances on the record, I find sufficient substance in the submission of Mr. Chutia, the learned counsel for the respondent No.2, and the decisions referred by him also supported his contentions. However, to decide the issue in this petition, detailed discussion of the same is found to be not necessary.

32. In the result, this court finds no merit in this petition and accordingly, the same stands dismissed. The parties have to bear their own cost.

J U D G E

Comparing Assistant