

GAHC010247432024



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

Case No. : WA/415/2024

SMT. ANJU RANI BAISHYA
W/O SHRI RANJEET KUMAR DAS, R/O ARABINDA COMPLEX, WARD NO.
06, BARPETA ROAD, P.O. AND P.S.-BARPETA, DIST- BARPETA, ASSAM, PIN-
781315. PR/AR MINISTERS COLONY, ASSAM, DISPUR, GUWAHATI-781006

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI-781006

2:THE SECRETARY
BOARD OF SECONDARY EDUCATION
ASSAM
BAMUNIMAIDAM
GUWAHATI-21

3:THE PRINCIPAL/HEADMASTER
PUB BAHJANI
GOPALNATH BALIKA VIDYA MANDIR
P.O.-JANIGOG VIA NALBARI
ASSAM
PIN-78133

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the Petitioner : Mr. P. Mahanta, Advocate.

For the Respondents : Mr. N. Das, Junior Govt. Advocate, Assam for respondent No.1.

: Mr. T.C. Chutia, Standing Counsel, SEBA for respondent No.2.

Date of Judgment : **09.12.2024.**

JUDGMENT & ORDER (ORAL)

(Kaushik Goswami, J)

Heard Mr. P. Mahanta, learned counsel for the appellant. Also heard Mr. N. Das, learned Junior Government Advocate, Assam appearing for the respondent No.1 and Mr. T.C. Chutia, learned Standing Counsel, SEBA appearing for the respondent No.2.

2. This writ appeal is presented against the judgment & order dated 22.10.2024 passed by the learned Single Judge in WP(C) No.5826/2022, whereby the writ petition filed by the appellant/writ petitioner for correction of her date of birth in her academic testimonials, was dismissed.

3. It is the specific case of the appellant/writ petitioner that her date of birth has been wrongly recorded in her academic testimonials, i.e. HSLC, Admit Card, Pass Certificate, etc. Accordingly, the appellant/writ petitioner approached the Headmaster of the concerned school for correction of her date of birth by filing an application and the concerned Headmaster submitted the same to the respondent No.2 by incorporating the correct age. It is the further case of the appellant/writ petitioner that since the respondent No.2 was sitting silent over

the matter, she submitted another representation before the respondent No.2 for correction of her date of birth. It is the further case of the appellant/writ petitioner that finally the respondent No.2, on 04.04.2022, disposed of the representation of the appellant/writ petitioner by holding that the age of the appellant/writ petitioner recorded by the respondent authorities in her academic testimonials is correct.

4. Aggrieved by the aforesaid order dated 04.04.2022 issued by the respondent No.2, the appellant/ writ petitioner filed the aforesaid writ petition, which was dismissed by the learned Single Judge. Situated thus, the present appeal has been preferred by the appellant/writ petitioner.

5. Mr. P. Mahanta, learned counsel for the appellant/ writ petitioner by relying upon a photocopy of a *janam-kundali* (Horoscope) of the appellant/writ petitioner submits that the same indicates that her date of birth was 01.03.1966 and not 10.12.1965 as recorded in the School Admission Register and hence, the age recorded in the Academic Testimonial is not correct. He further submits that the learned Single Judge, having not taken the age recorded in the *janam-kundali* (horoscope) as the correct age of the appellant/writ petitioner, erred in law and hence, the impugned judgment & order passed by the learned Single Judge warrants interference from this Court.

6. Per contra, Mr. T.C. Chutia, learned Standing Counsel, SEBA appearing for the respondent No.2 submits that as per Notification dated 29.09.1975, SEBA has fixed time limit for filing an application for correction of the date of age, name, title, etc., from the date of commencement of examination

concerned and on expiry of the same, no application shall be entertainable. He further submits that as per another Notification dated 29.09.1975, once age is recorded by the Headmaster and the same is entered into the record of the Board, it will not be altered except only on the ground of wrong calculation of the clerical errors for which an application has to be made. He further submits that since no such application was made within the time prescribed, the representation for correction of the date of birth of the appellant/writ petitioner is time barred. He further submits that the learned Single Judge, after examining the entire matter, has returned the verdict against the appellant/writ petitioner and as such, the same warrants no interference from this Court.

7. We have given our prudent consideration to the arguments made by the contesting parties and have also perused the material available on record.

8. The issue involved in this appeal is the legality and validity of the impugned order dated 04.04.2022 issued by the respondent No.2, whereby the representation dated 05.12.2019 filed by the appellant/writ petitioner for correction of her date of birth was rejected.

9. Apt to reproduce the order dated 04.04.2022 issued by the respondent No.2, which is reproduced hereunder for ready reference:

“ORDER

No. SEBA/GEN/SUIT/40/20/61 Dated Guwahati the 4th April, 2022

Perused the order dated 10/11/2021 passed by the Hon'ble Gauhati High Court in WP(C) No. 3698/2020 Anju Rani Baishya Das -Vs-State of Assam & ors.

Also perused the petition of Anju Rani Baishya Das dated 15/11/2021

praying for correction of her age as 16 years 0 month 0 days as on 01/03/1982 instead of 17 years 2 months 21 days as mentioned in the HSLC documents. Though the petitioner was advised by the Hon'ble Gauhati High Court to submit other document to substantiate her claim, she did not submit any other document with her application dated 15/11/2021. The applicant has also stated that the Headmaster, Pub-Bahjani Gopalthan Balika Vidya Mandir, Janigog, Nalbari vide letter No.P.B.G.V.M./HSLC/12/350-351 dated 26/05/1984 submitted a letter to the Secretary, Board of Secondary Education, Assam, mentioning therein school age of the applicant as 16 years 0 months 0 days as on 1/3/1982. The applicant has also enclosed a photocopy of the letter claimed to be written by the Headmaster Pub-Bahjani Gopalthan Balika Vidya Mandir, Janigog, Nalbari on 26/05/1984. The photocopy of the said letter is seemed to be attested by one Superintendent of Taxes Guwahati Unit-D on 3/12/2019.

Having found no other documents alongwith the fresh application dated 15/11/2021 which can substantiate the DOB/Age of the petitioner as claimed for, a letter was written to the petitioner vide this office No.SEBA/GEN/SUIT/24/19/54 dated Guwahati the 10th March, 2022 asking her to submit any document(s) available with her in support of her DOB/Age for passing a reasoned order.

On receipt of the above mentioned letter from this office, the petitioner submitted a reply to the Secretary, SEBA vide her letter dated 23/03/2022 reporting that she has already submitted all the documents available with her. Though the petitioner has stated that she has submitted all documents, she only submitted the photocopy of the letter dated 26/5/84 said to have written by the Headmaster of Pub-Bahjani Gopalthan Balika Vidya Mandir, Janigog, Nalbari.

Since no other document was received in support of DOB/Age of the petitioner as claimed for, No.SEBA/GEN/SUIT/40/20/56 dated Guwahati 29th March, 2022 was written to the Inspector of Schools, Nalbari District Circle, Nalbari to collect and send Admission Register available with the said school having mention of DOB of the petitioner when she got admitted in lower classes in the Pub-Bahjani Gopalthan Balika Vidya Mandir, Janigog, Nalbari.

In response, the Inspector of Schools, Nalbari, vide letter No.IS/NDC/SEBA/02/2021/1153 dated 30/03/2022 has forwarded the School Admission Register of Pub-Bahjani Gopalthan Balika Vidya Mandir duly signed by the Head master, Pub-Bahjani Gopalthan Balika Vidya Mandir and counter signed by Inspector of Schools, Nalbari.

After careful perusal of the School Admission Register, it reveals that at the time of admission in class- VIII(eight), in Pub- Bahjani Gopalthan Balika Vidya

Mandir, Nalbari, the DOB of the petitioner was recorded as 10/12/64.

Perused the office records available in this Board against Roll F-39, No.236 of HSLC Examination, 1982 under which the petitioner had appeared and passed the HSLC examination in 1982 and found that the DOB of the petitioner is mentioned as 10/12/64 which counts her age as 17 years 2 months 21 days as on 1/3/1982. The DOB/Age of the petitioner furnished by the H/M, Pub-Bahjani Gopalthan Balika Vidya Mandir, Nalbari at the time of filling up form for the HSLC Examination, 1982 of the petitioner is 10/12/1964. Accordingly, the Board had recorded the same and issued HSLC Examination related documents to the petitioner.

Hence, it is clear that the DOB of the petitioner mentioned as 10/12/64 or age as 17 years 2 months 21 days on 1/3/82 recorded in the HSLC documents is correct. So, there is no clerical error leaving scope for correction of DOB of the petitioner at this stage and the petition is accordingly disposed of in compliance of the Hon'ble High Court's order dated 10/11/2021 passed in WP (C) No. 3698/2020."

10. It appears that since the representation filed by the appellant/writ petitioner for correction of her date of birth recorded in the concerned Academic Testimonials was not being attended by the respondent No.2, the appellant/ writ petitioner filed a writ petition under Article 226 of the Constitution of India before this Court, which was registered as WP(C) No.3698/2020. The said writ petition was disposed of by the learned Single Judge by directing the respondent No.2 to pass a reasoned order on the representation dated 05.12.2019 submitted by the appellant/writ petitioner. It further appears that pursuant to the aforesaid direction of this Court, the respondent authorities, by the above extracted impugned order dated 04.04.2022, examined the representation filed by the appellant/writ petitioner.

11. It further appears that except photocopy of a letter allegedly written by the concerned Headmaster, no other documents to substantiate the claim of the appellant/writ petitioner was enclosed to the said representation. Accordingly,

an opportunity was given to the appellant/writ petitioner to submit documents in support of her claim for correction of date of birth/age before passing the reasoned order.

In response thereof, it appears that the appellant/ writ petitioner stated that she had already submitted all the documents available with her. Since no other documents were forthcoming from the appellant/writ petitioner, a letter was written to the Inspector of School, Nalbari on 29.03.2022 for collecting and furnishing the Admission Register available with the concerned School where the date of birth of the appellant/writ petitioner, when she got admitted into Lower Classes, is recorded. The jurisdictional Inspector of School, by letter dated 30.03.2022, forwarded the School Admission Register which reveals that at the time of admission into Class 8 at the concerned School, the date of birth of the appellant/writ petitioner was recorded as 10.12.1964.

12. It appears that the respondent No.2, after carefully perusing the said Register as well as other Office Record available, concluded that the date of birth of the appellant/writ petitioner as recorded in the HSLC documents is correct. Thus, it appears that as per document available on record, the appellant's date of birth is correctly recorded in the Academic Testimonial documents. Pertinent that the *janam kundali* (horoscope) which the appellant/writ petitioner has brought on record by filing an additional affidavit before the Writ Court to prove her claim that her date of birth is 01.03.1966 appears to be doubtful, inasmuch as, there is no date mentioned in the said janam kundali (horoscope). Further, the said *janam kundali* (horoscope) is not issued by any competent authority. Therefore, the said *janam kundali* (horoscope) has no legal sanctity and the same cannot be taken as correct on

its face value. It further appears that the said *janam kundali* (horoscope) is also not produced before the respondent No.2 despite the opportunity being given to the appellant/writ petitioner to produce documents in support of her claim. Thus, no credence can be given to such photocopy of *janam kundali* (horoscope).

13. Apt to reproduce the relevant paragraphs of the impugned judgment & order dated 22.10.2024 passed by the learned Single Judge, which read as hereunder:

“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.”

14. It is apparent that the learned Single Judge, after careful consideration of the matter, has held that the speaking order dated 04.04.2022 issued by the respondent No.2 is reasonable and plausible.

15. That being the position, we are of the unhesitant view that there are no legal infirmities with the findings recorded by the learned Single Judge. Therefore, the appeal fails.

16. Resultantly the writ appeal stands dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant