

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on : 01.01.2025.

Pronounced on : 24.03.2025.

Case:- WP(C) No. 1162/2024

**Mahin Tickoo, Age: 20 yrs,
S/o Sh. Rakesh Tickoo,
R/o H. No. 232, A/5, Indira Vihar,
Old Janipur, Jammu- 180007.**

.....Petitioner

Through: Mr. Pawan K. Kundal, Advocate

Vs

- 1. Union of India and others
Through Ministry of Human Sources Development,
Department of School Education & Literacy,
Room No. 225-C, Wing Shastri Bhawan,
Dr. Rajinder Parshad Road, New Delhi – 110115.**
- 2. Central Board of School Education,
Shiksha Kendar-II, Community Centre,
Preet Vihar, Delhi – 110092,
Through its Secretary
Secy-cbse@nick.in**
- 3. Regional Office, Chandigarh,
SCO 37-40, Juvilee Square,
Gmada Aerocity, Sahibzada,
Ajit Singh Nagar, Mohali, Punjab-140306.
Through Joint Secretary
Coechandigarh@gmail.com**

..... Respondents

Through: Mr. Vishal Sharma, DSGI.
Mr. Vipin Gandotra, Advocate.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

01. The petitioner came forward with the institution of present writ petition bearing a cause of action relatable to correction of entry of his date of birth in the school record but failing to earn a favorable response thus leading him to take recourse to invoke writ jurisdiction of this court under article 226 of the Constitution of India (COI). The institution of the writ petition came to take place on 20/05/2024.

02. The petitioner has mentioned his age in the writ petition to be of 20 years.

03. The petitioner is said to have done his schooling under the Central Board of Secondary Education (CBSE) system. The petitioner passed his secondary school (matriculation) examination in the year 2020 from the Delhi Public School (DPS) Maharaja Hari Singh Marg Jammu under roll number 13219622 for which the respondent No. 2- the Central Board of Secondary Education (CBSE) issued marks statement cum certificate, Secondary School Examination, 2020 in which the petitioner's date of birth came to be mentioned as **28/11/2004**.

04. As against his said recorded date of birth of **28/11/2004** in the CBSE issued marks statement cum certificate, the petitioner came to cite birth certificate issued by office of the Registrar of

Births and Deaths, Jammu Municipal Corporation under section 12/17 of the Registration of Births and Deaths Act, 1969 read with rules 8/13 of Jammu and Kashmir Registration of Births and Deaths Rules, 2022 bearing the petitioner's date of birth to be **28/11/2003**.

05. Thus, one year age difference has come to attend the petitioner in terms of his birth date as recorded in the statue backed and based municipal record and the one recorded in CBSE record for aligning which the petitioner sought correction of CBSE recorded date of birth.

06. There is no doubt to the fact that upon his birth, the petitioner's father Sh. Rakesh Tickoo and mother Smt. Meenakshi Tickoo had got the fact of birth of son to them recorded with Municipality Jammu, as it used to be then being predecessor of Municipal Corporation Jammu, under registration number **3480** on **13/12/2003** that a male child has been born with date of birth **28/11/2003**. This public record document is un-impeachable given its statutory basis and also bearing in mind that its making coincided with the incident of birth of the petitioner.

07. Under which circumstances in the school record of the petitioner, his date of birth came to be recorded as 28/11/2004, instead of 28/11/2003 is either known to the petitioner's parents or to the school authorities when and where the admission of the

petitioner as a minor in the school had first taken and for which entry the petitioner cannot be put to account for.

08. The petitioner's Aadhaar Card No. 7602 5616 0384 also carries petitioner's date of birth to be 28/11/2003. The petitioner's permanent account number card (PAN Card) No. CKFPT 4071B bears the petitioner's date of birth to be 28/11/2003. Thus, there are three public/statutory sourced documents relating to the petitioner's date of birth to be 28/11/2003 as against the petitioner's date of birth in the CBSE record to be 28/11/2004.

09. The petitioner made an application to the Principal of the Delhi Public School (DPS) Jammu seeking correction of his school recorded date of birth of 28/11/2004 which application was forwarded to the CBSE Regional Office, Chandigarh which came forward with a response in writing that case for correction of date of birth of the petitioner is rejected without stating the reason for said rejection and that made the petitioner to rush to this court with the present writ petition for seeking an appropriate writ unto the respondents, in particular unto the respondent No. 2, for doing the needful record correction in favour of the petitioner.

10. In their reply, the respondents No. 1, 2 & 3, acting through Under-Secretary CBSE Regional Office Chandigarh seeking the dismissal of the writ petition, both on factual as well as legal basis. In their reply, the respondents have come to refer to rule 6 of

CBSE Examination By-laws reproduced in the reply and same is to the following effect: -

“6. Admission: General conditions.

6.1 (a) a student seeking admission to any class in a school Will be eligible for admission to that class only if he/she:

- (i) has been studying in a school recognized by our affiliated to this board or any other recognized board of secondary education in India;
- (ii) has passed qualifying or equivalent qualifying examination making him eligible for admission to that class;
- (iii) satisfies the requirement of age limits (minimum and maximum) as determined by the state/UT Government and applicable to the place where the school is located;
- (iv) produces;
 - a) School leaving certificate/transfer certificate signed by the head of the institution last attended and countersigned, if required as provided elsewhere, in these bylaws;
 - b) document(s) in support of his having passed the qualifying or equivalent qualifying examination; and
 - c) For the purpose of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births,

Deaths, and Marriages Registration Act, 1886 or on the basis of such other document, as may be prescribed, as stipulated in section 14(1) of the right of children to free and compulsory education act 2009;

- d) No child shall be denied admission in a school for lack of age group, as stipulated in section 14(2) of the right of children to free and compulsory education act 2009.”

11. In their reply, the respondents have acknowledged that it is the parents of the petitioner, who at the time of admitting the petitioner to school, had recorded his date of birth to be **28/11/2004** in the school admission form and also concomitant forms. The respondents have attributed it to the parents of the petitioner that school admission time furnished Municipality Jammu issued birth certificate with respect to the petitioner, as against the one produced and relied upon by the petitioner in his writ petition annexed along with the writ petition, though bear same registration number **3480** but there is a change of year from **2003** to **2004** on the basis of which the petitioner's date of birth in the school record came to be registered 28/11/2004.

12. There is no scope for any sort of denial to the fact that the petitioner's parents, at the relevant point of time of first admission of the petitioner in the school, could be assumed to have resorted to some acts of omission and commission related to the copy of birth

certificate issued by Municipality Jammu where in the originally recorded date of birth of 28/11/2003 came to be overwritten to be 28/11/2004 otherwise the school office at its end would have no interest to alter the date of birth obtaining in the Jammu Municipality issued birth certificate under registration number **3480**.

13. What was the constraint and cause for the petitioner's parents to over write 2004 as year of birth of the petitioner as against originally recorded 2003 in the birth certificate issued by Municipality Jammu is a matter of guess, only but the fact remains the petitioner, being a minor child at the time of his admission in the school getting done by his parents, cannot and should not be held privy to any act of omission or commission on the part of his parents, and consequently cannot be made to bear and suffer the effects of any said act of omission and commission on the part of his parents related to his school admission related formalities.

14. In fact, there is even a scope to excuse the parents of the petitioner with respect to the interpolation of year 2004 instead of 2003 in the Jammu Municipality issued birth certificate copy produced at the time of admission of the petitioner in the school, and that scope is forth coming from the fact that the Registrar Vital Statistics Municipality Jammu being the signing authority issuing the certificate subscribed his date of signing to be **23/12/03** and

that means the altered year of birth as 2004, both figure wise and word wise, instead of 2003 of the petitioner in the birth certificate copy ought to have been pointed out at the very instant moment when said copy of birth certificate was produced before the school office attending the admission process of the petitioner and was available to inspection and confirmation with the original.

15. Be that as it may, the issue which gets presented before this court for determination is as to whether the respondent CBSE is obliged to carry out the course correction with respect to the recorded date of birth of petitioner in the CBSE record so as to be in accord with Jammu Municipality recorded date of birth related to the petitioner.

16. Both sides have come up bearing heavy reliance upon a judgment of the Hon'ble Supreme Court of India in the case of "Jigya Yadav Vs C.B.S.E" (2021 AIR SC 4775) to sail their respective standpoints.

17. It needs to be put on record straight that the respondent No. 2 CBSE is fault free in the case whereas the blame lies squarely with the parents of the petitioner who at no point of time ever spared a concern that their son's date of birth in school record is not in sync with the original one recorded and reflected in the Birth Certificate earned by them by their own act from the Jammu Municipality. However, for the said omission and commission on the

parents' part, how and to what extent and by which legal principle the petitioner can be made to bear a faulty date of birth as per his school credentials as against his actual date of birth recorded and obtaining in other public domain based authentic documents, is a knotty problem begging for legal sorting.

18. This court needs to bear in mind that the act and fact of registration of **28/11/2004** as petitioner's date of birth in the school record is that of and ascribed solely to the petitioner's parents as at the relevant point of time the petitioner was a minor being admitted to school for his elementary education wherefrom he carried on to undergo primary and secondary education without himself being an actor and by his very age of minority was a passive person not meant to administer and govern his judgment and affairs.

19. Thus, a prejudice was never meant to be in operation against the petitioner with respect to his recorded altered date of birth in terms of mention of year 2004 instead of 2003 in the school record and consequently in CBSE record. Due diligence was lacking on the part of the school authorities of DPS Jammu as it ought to have asked for the original birth certificate of the petitioner issued by the Jammu Municipality for the sake of comparison and correction with the copy of the birth certificate as submitted by the petitioner's parents in connection with the petitioner's admission

before forwarding the petitioner's credentials to the CBSE for record sake and service. Due diligence was equally missing on the part of the petitioner's parents in this regard but the effect is meant to be suffered by the petitioner post his minority age and that is where the scope for equity to come in favour of the petitioner is very much inherently at play.

20. The Hon'ble Supreme Court of India in the case of Jigya Yadav Vs C.B.S.E (supra) while dealing with the proposition formulated as point No. 3 in paras 151 to 157 dealt with a present case like scenario by posing a question as to whether C.B.S.E is obliged to effect changes in the certificates issued by it upon production of updated public documents other than school records.

21. The Hon'ble Supreme Court of India has mandated the C.B.S.E Board to take notice of the public documents relied upon by a student to record change on that basis in the certificate/s issued by it for being consistent with the relied upon public documents notwithstanding the fact that the school record of the student/s is at variance with the public documents in terms of the particulars with respect to which change is solicited by the student/s, with respect to C.B.S.E school board record related to him/her. For the facility of reference paras, 151, 152, 153, 154, 155, 156 & 157 are reproduced hereunder:-

“151. Whether CBSE is obliged to effect changes in the certificates issued by it upon production of updated public documents (other than school records), is the next issue for consideration. According to the Board, it would not be permissible as it has no independent mechanism to verify the genuineness of the public documents. Even under the Byelaws, there is no requirement for the Board to verify the genuineness of the documents. It is simply not the job of the Board.

152. The Byelaws provide for a two-tier mechanism for recording change of name or other details (as indicated above). One of them is prior permission or declaration by a Court of law to be obtained. As regards public documents like Birth Certificate, Official Gazette, Aadhaar Card, Election Card, etc., the same enjoy legal presumption of its correctness in terms of explicit provisions contained in Chapter V of the 1872 Act. The 1872 Act extends such presumption in terms of Section 76 read with Sections 79 and 80 of the 1872 Act and as in the case of Official Gazette under Section 81 of the same Act. Even other legislations concerning public documents attach equal importance to the authenticity of such documents including while making changes in their certificates to which we have alluded to in this judgment. Understood thus, there is no reason for the CBSE Board to not take notice of the public documents relied upon by the candidate and to record change on that basis in the certificate issued by it, for being consistent with the relied upon public documents. It matters not if the information furnished in the public documents is not entirely consistent with the school records of the incumbent. The CBSE while accepting those documents as foundational documents for effecting changes consistent therewith may insist for additional conditions and at the same time while retaining the original entry make note in the form of caption/annotation in the fresh certificate to be issued by it while calling upon the incumbent to surrender the original certificate issued by it to avoid any misuse thereof at a later point of time. It would be permissible for the CBSE to insist for a sworn affidavit to be given by the incumbent making necessary declaration and also to indemnify the CBSE. The fresh certificate to be issued by the CBSE may also contain disclaimer of the Board clearly mentioning that change has been effected at the behest of the incumbent in light of the public documents relied upon by him. In addition, the incumbent can be called upon to notify about the change in the Official Gazette and by giving public notice as pre-condition for recording the change by way of abundant precaution.

153. This Court in CIDCO v. Vasudha Gorakhnath Mandevlekar (2009) 7 SCC 283 : 2009 Legal Eagle (SC) 937 , has observed that the records maintained by statutory authorities have a presumption of correctness in their favour and they would prevail over any entry made in the school register. The Court observed thus:

“18. The deaths and births register maintained by the statutory authorities raises a presumption of correctness.

Such entries made in the statutory registers are admissible in evidence in terms of Section 35 of the Evidence Act. It would prevail over an entry made in the school register, particularly, in absence of any proof that same was recorded at the instance of the guardian of the respondent. (See Birad Mal Singhvi v. Anand Purohit AIR 1988 SC 1796 : 1988 Legal Eagle (SC) 449 .)”

The same position of law can be extended to the mandate laid down in Right to Education Act and Chapter-3 of the CBSE Byelaws relating to admission of students. Byelaw 6.1 is instructive and relevant extract thereof reads thus:

“6. Admission: General Conditions:

6.1 (a) A student seeking admission to any class in a ‘School’ will be eligible for admission to that Class only if he:

....

....

(iv) produces:

...

(c) For the purposes of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1886 or on the basis of such other document, as may be prescribed, as stipulated in section 14(1) of THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009.

(d) No child shall be denied admission in a school for lack of age proof, as stipulated in section 14(2) of THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009.”

Therefore, even at elementary education level, there is a clear legislative intent to rely on statutory Birth Certificates for the purpose of date of birth. The authoritative value of these certificates is duly affirmed in this scheme.

154. There is no difficulty in correcting CBSE record to bring it in conformity with the school record. The difficulty arises when a statutory document is not consistent with the school record. As observed earlier, the version supported by statutory documents could be reckoned for the purpose of correction in CBSE certificate to make it consistent with public documents.

155. Post 2018 amendment of Byelaws, even in case of date of birth, corrections are permitted on two basis – to bring in conformity with school records and in pursuance of court order. The relevant provision reads thus:

“A. “Correction as per the school records:

i. Corrections to correct typographical and other errors to make the certificate consistent with the school records can be made provided that corrections in the school records should not have been made after the submission of application form for admission to Examination to the Board.

...

...

B. Correction as per Court Orders.

Applications regarding correction in date of birth of candidates will be considered provided the correction have been admitted by the Court of law. In cases of correction in date of birth in documents after the court orders caption will be mentioned on the document “CORRECTION ALLOWED IN DATE OF BIRTH FROM _____ TO _____ ON (DATED) _____ AS PER COURT ORDER NO. _____ DATED _____.”

156. When a student applies to a Court of law for prior permission and/or declaration and produces public document(s), the Court would enter upon an inquiry wherein the legal presumption would operate in favour of the public document(s) and burden would shift on the party opposing the change to rebut the presumption or oppose the claim on any other ground. The question of genuineness of the document including its contents would be adjudicated in the same inquiry and the Court of law would permit the desired change only upon verifying the official records and upon being satisfied of its genuineness. At the same time, the question of justiciability of the requested changes would be considered and only upon being satisfied with the need demonstrated by the student, the Court would grant its permission. The said permission can then be placed before the Board along with copy of publication in the official gazette and requisite (prescribed) fee (if any). The Board would then have no locus to make further enquiry nor would be required to enter upon any further verification exercise.

157. We may now advert to the dictum of the Kerala High Court in Subin Mohammed supra at Footnote No.12. The same has been relied upon in most of the impugned judgments for permitting corrections. In that decision, the Court discussed the inadequacies in the Byelaws and issued directions to CBSE to correct date of birth with reference to statutory Birth Certificates provided the request is found to be genuine. The operative directions read thus:

“41. Hence, to meet the ends of justice, it will be appropriate for this Court to dispose the Writ Petitions with the following directions:

(i) That CBSE shall correct the entries in the mark sheet of the petitioners with reference to their corresponding birth certificates issued by the statutory authority, if the request is found to be genuine.

(ii) Genuineness of the birth certificate can be ascertained from the respective local/statutory authority/Head of the Institution or such other method, CBSE may deem it fit.

(iii) CBSE can demand in advance a consolidated fee, including all expenses for processing such applications.

(iv) Each of the petitioners shall pay Rs. 5,000/- (Rupees Five thousand only) as cost to CBSE within a period of one month.” (emphasis supplied)

Thus, the task of determining genuineness of the request was left to the CBSE, which not only goes contrary to our discussion above but also fails to take into account the limitations of CBSE as a body. While considering requests for changes in certificates, CBSE cannot act as a court and it cannot effectively consider any request over and above those requests that merely require bringing the certificates in conformity with the school records or public documents, as the case may be.”

22. In the light of the aforesaid facts and circumstances and bearing in perspective the spirit and sensibility of the verdict of the Hon’ble Supreme Court of India in its very elaborate judgment on the subject referred above, this Court finds itself equity driven to render justice to the petitioner by passing a direction unto the

respondent No. 2 - C.B.S.E to carry out needful correction of date of birth of the petitioner in its record from **28/11/2004** to **28/11/2003** so as to be in accord with the petitioner's date of birth as recorded in the Jammu Municipality issued Birth Certificate, Aadhar Card and Pan Card, judicial magistrate Ist class attested copies whereof to be submitted by the petitioner to the respondent No. 2 – C.B.S.E.

23. The respondent No. 2-C.B.S.E to do the needful by calling upon the petitioner to first surrender the original birth certificate issued by it for the purpose of facilitating issuance of an amended date of birth certificate in order to ward off any misuse of the existing date of birth certificate held by the petitioner issued by the respondent No. 2 - C.B.S.E bearing the petitioner's date of birth to be **28/11/2004**.

24. The respondent No. 2 - C.B.S.E to call upon the petitioner to submit an affidavit duly attested by a Judicial Magistrate Ist Class declaring therein that the petitioner henceforth shall not be making use of **24/11/2004** as his date of birth on the basis of school record for any purpose whatsoever and before any authority whomsoever in and outside India and that he will keep the respondent No. 2-C.B.S.E indemnified in the event of any consequence, be it monetary or otherwise, to befall upon the respondent No. 2 – C.B.S.E on account of change of date of birth of

the petitioner from **24/11/2004** to **24/11/2003** in the C.B.S.E record. Affidavit further to bear an averment that change of year of birth from 2004 to 2003 with respect to the petitioner in his school record has been effected at the behest of the petitioner in the light of the public document (Jammu Municipality issued birth certificate) relied upon by him.

25. Disposed of.

(RAHUL BHARTI)
JUDGE

JAMMU
24.03.2025
Muneesh

