

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 27056 of 2015 (F)

PETITIONER:

**ARJUN T PRADEEP, AGED 24 YEARS,
S/O.PRADEEPAN THOTTUMKARA,
"SANGEERTHANAM", KAITHACHAL P.O,
MANGATTIDOM, THALASSERY, KANNUR - 670643.**

**BY ADVS.DR.K.P.PRADEEP
SRI.N.R.SHANAVAS**

RESPONDENT(S):

- 1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY,
MINISTRY OF HUMAN RESOURCES DEVELOPMENT,
DEPARTMENT OF SCHOOL EDUCATION &
LITERACY GOVERNEMENT OF INDIA,
SHASTRI BHAWAN, NEW DELHI - 110001.**
- 2. CENTRAL BOARD OF SECONDARY EDUCATION,
SHIKSHAK KENDRA, 2, COMMUNITY CENTRE,
PREET VIHAR, DELHI - 110092,
REPRESENTED BY ITS CHAIRMAN**
- 3. REGIONAL OFFICER,
CENTRAL BOARD OF SECONDARY EDUCATION,
NEW NO. 3(OLD NO.1630 A) J BLOCK, 16TH MAIN ROAD,
ANNA NAGAR (WEST), CHENNAI - 600040.**
- 4. THE PRINCIPAL, JAWAHAR NAVODAYA VIDYALAYA,
CHENDAYAD P.O., KANNUR - 670692.**
- 5. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF URBAN AFFAIRS,
GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695001.**

WP(C).No. 27056 of 2015 (F)

6. THE REGISTRAR OF BIRTHS AND DEATHS,
KUTHUPARAMBA MUNICIPALITY, KUTHUPARAMBA,
KANNUR - 670 696.

R1 BY SRI.N.NAGARESH, A S G OF INDIA
BY ADV. SRI.PRAMOD PRABHAKARAN, CGC
R2 & R3 BY SRI.DEVAN RAMACHANDRAN, SC
R5 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-12-2015 ALONG WITH WPC.1850/2014 & CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: TRUE COPY OF THE BIRTH CERTIFICATE NO.103/1991 DATED 23.01.1991 ISSUED BY THE REGISTRAR OF BIRTHS AND DEATHS, KUTHUPARAMBA MUNICIPALITY.
- P2: TRUE COPY OF THE PASSPORT NO.M 3308141 DATED 07.11.2014 ISSUED BY THE PASSPORT OFFICER, KOZHIKODE.
- P3: TRUE COPY OF THE APPLICATION FORM FOR ADMISSION IN NO.1400 DATED 23.05.2002 ON THE FILES OF THE 4TH RESPONDENT.
- P4: TRUE COPY OF THE CERTIFICATE NO.M/07/06579/009236 DATED 28.05.2007 ISSUED BY THE CONTROLLER OF EXAMINATIONS OF THE 2ND RESPONDENT.
- P4 A: TRUE COPY OF THE MARK LIST IN ROLL NO.4150612 ISSUED BY THE CONTROLLER OF EXAMINATIONS OF THE 2ND RESPONDENT.
- P5: TRUE COPY OF THE LETTER NO. C1/JNVK/2009-10/932 DATED 01.03.2010 WITH ANNEXURE ISSUED BY THE 4TH RESPONDENT.
- P6: TRUE COPY OF THE APPLICATION FORM FOR ADMISSION IN FORM NO.3 SUBMITTED TO THE VATTIPROM UP SCHOOL, KANNUR.
- P7: TRUE COPY OF THE LETTER NO.C3/JNVC/2013-14/18 DATED 08.04.2014 WITH ANNEXURE ISSUED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT.
- P8: TRUE COPY OF THE ORDER NO.RO(M)/CORRN/REJECTION/DOB/2014/5862 DATED 19.05.2014 ISSUED BY THE 3RD RESPONDENT.
- P9: TRUE COPY OF THE COMMUNICATION NO. C3/JNVC/2014-15/52 DATED 31.05.2014 ISSUED BY THE 4TH RESPONDENT.
- P10: TRUE COPY OF THE LETTER NO. C3/JNVK/2014-15 DATED 07.06.2014 WITH ANNEXURE ISSUED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT.
- P11: TRUE COPY OF THE ORDER RO(M)CORRN/REJECTION /DOB/2015/5862 DATED 26.02.2015 ISSUED BY THE 3RD RESPONDENT.
- P12: TRUE COPY OF THE COMMUNICATION NO. C3/JNVC/2014-5/576 DATED 13.03.2015 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- P13: TRUE COPY OF THE RELEVANT PAGES OF EXAMINATIONS BYE LAW OF CBSE, 1995.
- P14: TRUE COPY OF THE NOTIFICATION NO. CBSE/COORD/EC 31.03/2015 DATED 25.06.2015 ISSUED BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.Muhamed Mustaque, J.

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W.P.(C)Nos.1850/14 & 2154, 2447, 2498, 4085, 4716, 5470, 5862, 6852, 6914, 6960, 7281, 7290, 7816, 8049, 8140, 9367, 9804, 10104, 10105, 10126, 10141, 10142, 10249, 10904, 11092, 11447, 11948, 11997, 12728, 12747, 14491, 14749, 14754, 14809, 14892, 15018, 15076, 15139, 15382, 15652, 15721, 15964, 16335, 16422, 16544, 16675, 16685, 16762, 16934, 17422, 17682, 18523, 18563, 19045, 19078, 19079, 19175, 19257, 19401, 19456, 20094, 20181, 20302, 20466, 20542, 20720, 20974, 21086, 21350, 21546, 21562, 21573, 21972, 22019, 22093, 22166, 22547, 22548, 22807, 22973, 22976, 23362, 23435, 23881, 23889, 24119, 24239, 24408, 24455, 24591, 25671, 25850, 26647, 26651, 26679, 26905, 26966, 27003, 27056, 27064, 27231, 27252, 27267, 27435, 27608, 27625, 27711, 27745, 27950, 28149, 28189, 28191, 28300, 28371, 28707, 28759, 29057, 29188, 29221, 29227, 29254, 29489, 29968, 30011, 30316, 30320, 30387, 30778, 30952, 31266, 31280, 31441, 31661, 31998, 32066, 32222, 32259, 32497, 32623, 33099, 33528, 34623, 34628, 34662, 35279, 35740, 35747, 36047, 36100, 37683, 37839, 37909, 38066, 38088/15

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Dated this the 17th day of December, 2015.

JUDGMENT

1. These batch of writ petitions are essentially relating to correction of date of birth of candidates in the certificates issued by CBSE.

2. Some of the writ petitions also have a prayer for correcting their parents' name in the certificate and also mistakes relating to the initials and other entries.
3. The dispute is now confined to the correction of date of birth as counsel for the CBSE submits that the CBSE can only correct clerical error, that too, if the students have applied for within one year of the declaration of results of Class X examination, and they cannot change the date of birth.
4. The bye-law regarding the correction of date of birth is bye-law 69.2 which reads as follows:

	AS PER REQUEST OF THE CANDIDATE AND GAZETTE NOTIFICATION NO.----- DATED	
69.2	<i>No change in the date of birth once recorded in the Board's records shall be made. However, 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.</i> <i>(ii) Such correction in date of birth of a candidate in case of genuine clerical error will be made under orders of the Chairman where it is established to the satisfaction of the Chairman that the wrong entry was made erroneously in the list of candidates/application form of the candidate for the examination.</i> <i>(iii) Request for correction in Date of Birth shall be forwarded by the Head of the School along with attested photostat copies of:</i> <i>(a) application for admission of the candidate to the School;</i> <i>(b) Portion of the page of the admission and withdrawal register where entry in date of birth has been made alongwith attested copy of the certificate issued by the Municipal Authority, if available, as proof of Date of Birth submitted at the time of seeking admission; and</i> <i>(c)The School Leaving Certificate of the previous school submitted at the time of admission.</i> <i>(iv) The application for correction in date of birth duly forwarded by the Head of School alongwith documents mentioned in byelaws 69.2(ii) shall be entertained by the Board only within five years of the date of declaration of result. No correction whatsoever, shall be made on application submitted after the said period of five years.</i>	<i>No change</i> <i>(ii) No change</i> <i>(iii) No change</i> <i>(iv) The application for correction in date of birth duly forwarded by the Head of School alongwith documents mentioned in byelaws 69.2(ii) shall be entertained by the Board only within one year of the date of declaration of result. No correction whatsoever, shall be made on application submitted after the said period of one year.</i>

5. As per the amended bye-law, CBSE shall entertain the application for correction only within one year of the declaration of results of Class X examination. In all these cases the pre-amended bye-law would apply in as much as the candidates have passed the examination prior to 25.6.2015. Therefore the applications filed prior to the amendment of bye-law 69.2 will have to be considered on the basis of the pre-amended bye-law.

6. The question now remains to be considered is upto what extent the power of the CBSE could be exercised. In all these cases the request is only for correcting the date of birth and not for change of date of birth. Therefore, this court is of the view that CBSE shall entertain such applications for correcting the entries in the certificate.

7. In the circumstances, these writ petitions are disposed of by issuing the following directions:

(i) As regards the petitioners' request for correction of date of birth/correction of initials/correction of parents' name are concerned, the same shall be considered by the school authorities,

within three weeks from the date of receipt of a copy of this judgment.

(ii) Thereafter the school authorities shall forward the corrected record to CBSE for correcting the certificate in consonance with the school records.

(iii) CBSE shall consider the applications based on the school records within a period of three months.

(iv) For the purpose of considering the applications, the CBSE shall ascertain as to the nature of mistake crept in while entering the actual date of birth in the school records. This could be verified with reference to the birth certificate issued by the Registrar of Births and Deaths. If the petitioners are able to produce the birth certificate issued by the local authority, certainly that can be a substantial piece of evidence to point out that it was a mistake.

(v) Therefore, based on those records, CBSE shall consider the applications for correcting the date of birth.

(vi) It is clarified that the mistake can be either on the part of

the school authorities, CBSE or on the part of the parents.

(vii) In respect of correction of other entries like father's name/mother's name/initial/date of birth, the CBSE shall carry out necessary correction on being satisfied of the genuineness of the documents produced. Petitioners who want to correct their father's name, mother's name, initial and other entries shall also forward the documents accordingly and the school authorities, on being satisfied, shall correct the same based on such request of the petitioner.

(viii) The school authorities or CBSE is entitled to levy necessary expenses in this regard.

Muhammed Mustaque, Judge.

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