

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.1487 of 2011 and M.P.No.1 of 2011

M.Shrewin Nayanar

...Petitioner

Vs

1. Council for the Indian School Certificate Examination,
rep. By its Assistant Secretary
(Cause title amended as per court
order dt. 23.12.2011 by MMSJ in
M.P.No.2 of 2011 in W.P.No.1487 of 2011)

2. The Principal,
Seventh-day Adventist Higher
Vepery, Chennai - 7

...Respondents

Prayer :- Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Certiorarified Mandamus
calling for the records of the 1st respondent in his proceedings
N/VII-327/2010 dated 05.10.2010 and quash the same, further direct
the 1st respondent to carry out correction in the name of the
petitioner as "M.Sherwin Nayanar" instead of "Sherwin M Nayanar" and
also correct the date of birth of the petitioner as 12.07.1988"
instead of "12.07.1987 in the pass certificate as well as in the
statement of marks and further direct to issue a fresh pass
certificate and statement of marks.

For Petitioner : Mr.B.Jawahar

For Respondents : Mr.K.J.Rebello for R1
Mr.Fr.Xavier Arul Raj for R2

O R D E R

Heard Mr. B.Jawahar, learned counsel appearing for the
petitioner and Mr. K.J.Rebello, learned counsel appearing for the
1st respondent and Mr.Fr.Xavier Arul Raj , learned counsel for the
2nd respondent.

2. The petitioner challenges the communication issued by the 1st respondent dated 05.10.2010, by which a request made by the petitioner for correction of the date of birth in the certificate was rejected as it is submitted after lapse of one year and regulations of the 1st respondent did not permit for the same. Further, it is to be pointed out that in the impugned order, an observation has been in the event of Court law allowing the change of name of a candidate, the same shall be carried out by the Board after obtaining relevant documents concerning change of name published in an official gazette.

3. The petitioner would state that his date of birth is mentioned as 12.07.1987, whereas the correct date is 12.07.1988 and the mistake has had happened only due to over sight and the petitioner was not aware of the same, only after he attains majority, he came to know that the date of birth has been wrongly entered. The petitioner appears to have changed his name in the year 2005 and an advertisement has been also issued in Tamilnadu Government Gazette, published on 12.01.2005. When the petitioner submitted a representation to the 1st respondent on 02.09.2010 for changing the date of birth as well as his name, the respondent rejected the same in the light of the guideline contained under Examination Regulations of the 1st respondent.

4. In the counter affidavit filed by the 1st respondent, the relevant regulation has been referred to namely, Rule A(6)(i) & (ii) of Chapter 4 of the Examination Regulations, which provides that correction of name/date of birth will be examined by the Council provided the application is made within a period of one year passing the ICSE Examination. As already pointed out, the respondent were willing to consider the petitioner's application for change of his name as well as his date of birth, if the direction is issued by this Court.

5. On consideration of the facts and circumstances of the case, it cannot be stated that the prayer made by the petitioner lacks bonafide nor malafide. In such circumstances, this Court is of the view that the petitioner's application should be considered on merits with reference to the limitation prescribed under the Examination Regulations. The validity of one year prescribed under the Examination Rules fell during the period when the petitioner was a minor, therefore the petitioner cannot be solely blamed for approaching the 1st respondent belatedly.

6. In the light of the above facts, this Writ petition is allowed and the portion of the impugned order, entertaining the application on the ground that it has been made after a period of

one year is set aside. Considering the peculiar facts and circumstances, the 1st respondent is directed to consider the petitioner's application for change of his name as well as his date of birth after examining all the relevant documents, which shall be produced by the petitioner as demanded by the respondent. The said direction shall be complied with by the 1st respondent within a period of two months from the date of receipt of copy of this order. Consequently connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd
To

1. The Assistant Secretary
Council for the Indian School Certificate Examination,
(Cause title amended as per court
order dt. 23.12.2011 by MMSJ in
M.P.No.2 of 2011 in W.P.No.1487 of 2011)

2. The Principal,
Seventh-day Adventist Higher
Vepery, Chennai - 7

2 cc to Mr.Fr.Xavier Arul Raj ,Advocate, SR.No.8538
1 cc to Mr. K.J.Renello,Advocate, SR.No.8372
1 cc to Mr.P.B.Saravanan ,Advocate, SR.No.8671

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vsn(co)
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