

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2015

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

W.P.No.26015 of 2015

M.Suresh

... Petitioner

Vs

1. The State of Tamil Nadu
rep. by its Secretary,
Department of School Education,
Fort St. George, Secretariat,
Chennai-9.
2. The Director of School Education,
Department of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai-6.
3. The Director,
Tamil Nadu Board of Secondary Education,
Directorate of Government Examinations,
DPI Campus, College Road, Chennai-6.
4. The Headmaster,
Government High School,
Alappakkam.
5. The Headmaster,
Government Higher Secondary School,
Porur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records of the second respondent relating to the impugned order dated 05.02.2014 bearing No.9512/M/E.3/2014 and quash the same and consequently, direct the 3rd respondent to effect a change in the date of birth of the petitioner as 08.08.1990 in his Secondary School Leaving Certificate dated 05.06.2006 and Higher Secondary Course Certificate dated 09.05.2008.

For Petitioner
For Respondents

.. Mr.S.Rajeni Ramadass
.. Mr.A.Kumar,
Additional Government Pleader

ORDER

The petitioner sought change of date of birth in the Certificates issued by the 2nd respondent wherein the actual date of birth of the petitioner, namely, 08.08.1990 has been wrongly mentioned as 08.07.1990. The petitioner by producing a copy of the birth certificate issued by the Corporation of Madras, requested the 3rd respondent to make necessary correction and issue fresh certificates and the same was rejected. Against which, the petitioner is before this Court with this Writ Petition.

2. The case of the petitioner is that the petitioner was born to one Murugan and Malliga on 08.08.1990 and the same was immediately registered with the concerned authority on 10.08.1990 which is evident from the Birth Certificate dated 28.02.1991 bearing No.822 of 1991 issued by the Health Department, Corporation of Chennai. While so, at the time of admission to the school, the month in which the petitioner was born was entered wrongly as 08.07.1990 instead of 08.08.1990. Accordingly, his date of birth has been shown as 08.07.1990 in the Higher Secondary and Senior Secondary School Certificate as well as in the Degree Certificate issued by Anna University. However, for all purposes, the petitioner has been furnishing his date of birth only as 08.08.1990. Since Higher Secondary, Senior Secondary and University Certificates are considered as proof of date of birth, on account of the discrepancy in the said certificates, the petitioner is unable to furnish the same as proof of date of birth. Therefore, the petitioner made a representation dated 29.01.2014 to the 2nd respondent, but the same was rejected by the 2nd respondent by the impugned communication dated 05.02.2014 stating that there is no provision under Rule 5 of the Tamil Nadu Secondary School Certificate Rules, for effecting such corrections after the pupil has left the school. Hence, the present Writ Petition.

3. This issue is covered by a decision of this Court in W.P.No.23716 of 2014 dated 03.03.2015. In the said decision, referring to Registration of Births and Deaths Act, 1969, as well as the rules, the authority concerned was directed to consider the case of the petitioner therein afresh. In this regard, it is useful to extract para 30 of the said decision which reads as follows:

''30. As stated supra, as per the birth certificate issued by the Sub-Registrar, Thiruvattur enclosed in the typed set of papers, the name of the child entered in the said certificate is S.Rajesh Kumar. The date of birth has been shown as 19.01.1975. When the statute provides for correction or cancellation of an entry in the register of births and deaths maintained by the Sub-

Registrar after coming into force of the Act, the said certificate can be relied on for making necessary changes in public records which includes the records maintained in the office of the Director of Government Examinations, Chennai. The contention of the respondents that the said correction can be made only before the student leaves the school and not later, cannot be accepted for the reason that any entry in the birth certificate by virtue of registration or alteration or cancellation by the competent authority under the Registration of Births and Deaths Act, 1969, has to be given effect to otherwise, the purpose for registration or alteration or modification would be defeated. There cannot be different entries in the public records maintained by different authorities, one under the Registration of Births and Deaths Act, 1969 and the other by the educational authorities. The date of birth as entered in the birth extract has to be entered in all the public records uniformly, unless and until any statutory rules, restrict such entry, like in the case of a Government servant, governed by the Tamil Nadu State and Subordinate Service Rules. In the light of the above discussion, this Court is not inclined to accept the objections of the educational authorities made on the basis of the Subsidiary rules framed before the introduction of the Central Act, 1969.

31. In the light of the decision made in W.P.No.9800 of 2009 in R.Deepak Vs. The Chairman, Tamil Nadu Uniform Service Recruitment Board, Chennai and two others, the certificate issued by the competent authority under Registration of Births and Deaths Act, 1969 and other supporting documents relied on by the present writ petitioner has to be considered''.

4. Following the same, the impugned orders passed by the 2nd respondent in this Writ Petition are set aside and the matter is remitted to the 2nd respondent to consider the claim of the petitioner in the light of the orders stated above and also by considering all the certificates and documentary evidences produced by the petitioner. The petitioner is directed to produce the birth certificate as well as other related documents, within a period of two weeks from the date of receipt of a copy of this Order and on such filing, the same shall be considered and necessary orders would be passed by the 2nd respondent, within a period of four weeks thereafter.

5. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Secretariat,
Chennai-9.
2. The Director of School Education,
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Porur.

1 CC to Mr.Rajeniramadass, Advocate (SR.No.44527)
1 CC to the Government Pleader, (SR.No.44698)

W.P.No.26012 of 2015

ksj (co)
cp (04.09.2015)