

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.19565 of 2014
Reserved on:14.08.2015
Date of decision:11.09.2015**

Manju Devi

....Petitioner(s)

Versus

Central Board of Secondary Education & another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Vikram Singh, Advocate, for the petitioner.

Mr.Aseem Aggarwal, Advocate, for
Mr.Harsh Aggarwal, Advocate, for respondent No.1.

G.S.SANDHAWALIA, J.

1. The petitioner seeks the correction of her date of birth in the Grade-sheet-cum-Certificate of Performance dated 24.05.2012 (Annexure P1), issued by the Central Board of Secondary Education, from 10.12.1993 to 10.02.1993
2. It is the case of the petitioner that she had appeared in the Secondary School Examinations for the year 2011-12 and as per the school record, her date of birth was also 10.02.1993. An application had been submitted on 21.09.2012 for correction, which was registered at Sr.No.HR-106. Another application was again submitted, which was registered as HR-125. But on account of the inaction of the respondent-Board, legal notice was sent on 19.05.2014 (Annexure P5) and a reminder was sent on 28.07.2014 (Annexure P6). The Board, vide communication dated 11.08.2014, held out that the change of date of birth would be only processed once the school had submitted the original record.
3. In the written statement filed, plea taken was that disputed questions of fact are involved and only a Court of original jurisdiction can decide the same on the basis of admissible evidence. The application had to be forwarded by the

Principal of the school, as per the bye-laws, namely 69.2, as amended. The petitioner had passed the 10th class in the year 2012 and filed the writ petition in September, 2014 and thus, there was delay and correction could only be done within one year. The factum of the petitioner representing on 21.09.2012, was denied. It was alleged that the copy was not annexed with the petition. The date had been recorded as per the list sent by the respondent No.2-School (Annexure R1/1) and the application had not been received by the school despite the Board having written to the school on 11.08.2014 (Annexure P7).

4. Rule 69.2 reads as under:

“Rule 69.2 Change/Correction in Date of Birth

(i) No change in the date of birth once recorded in the Board's records in respect of those candidates who have appeared for the Secondary/Senior Secondary Examinations conducted by the Board shall be made. However, correction 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.

(ii) Such correction in date of birth of a candidate in case of genuine clerical errors 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.

(iii) Request for correction in Date of Birth shall be forwarded by the Head of the School alongwith attested Photostat copies of :

(a) application for admission of the candidate to the School;

(b) Portion of the page of admission and withdrawal register where entry in date of birth has been made along with 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

(c) The School Leaving Certificate of the previous school submitted at the time of admission.

(iv) The application for correction in date of birth duly forwarded by the Head of School alongwith documents mentioned in byelaws 69.2(iii) shall be entertained by the Board only within two years of

the date of declaration of result of Class X examination. No correction whatsoever shall be made on application submitted after the said period of one year."

5. As per the said Rule, the request for correction of date of birth was to be forwarded by the Head of the School with attested photocopies of the application for admission and the withdrawal register along with the attested copies of the certificates issued by the Municipal authorities, if available, as proof, along with the School Leaving Certificate. The factum of the petitioner having applied on 21.09.2012 vide Sr.No.HR-106 and thereafter, vide Sr.No.HR-125 stands admitted by the respondent-Board in its communication dated 11.08.2014, wherein reference of HR-125 is mentioned. The petitioner had, thus, applied immediately after issuance of the certificate on 24.05.2012. The admission and withdrawal register have also been appended as Annexure P2, wherein the admission is shown on 04.07.2005 and the date of birth of the petitioner is depicted as 10.02.1993. The birth certificate issued by the Registrar (Births & Deaths) dated 30.12.2009, prior to the certificate issued by the Board also has been appended as Annexure P3. Similarly, the transfer certificate (Annexure P4) issued by the respondent No.2-School also shows the date of birth of the petitioner as 10.02.1993 and the date of admission on 04.07.2005. These cumulative factors would go on to show that the petitioner applied within a period of one year from the declaration of the result and on account of the fault of the school, which has chosen not to appear, it is apparent that the mistake has occurred. For the said mistake, the petitioner cannot be faulted and she is entitled for the change of date of birth, especially keeping in view the presumptive evidentiary value of the certificate issued by the Registrar (Births & Deaths).

6. The Division Bench of this Court has upheld the right of the minors to approach the Board within a period of 3 years from the date of attaining the maturity, on the basis of the birth certificate issued by the Registrar (Births &

Deaths) in LPA No.1613 of 2014 titled *Ambika Kaul Vs. Central Board of Secondary Education & others*, decided on 21.05.2015. The petitioner having been born on 10.10.1993, turned 18 in the year 2011 and it was permissible to her to apply within a period of 3 years, which she did, as noticed above.

7. In such circumstances, the present writ petition is allowed. The respondent-Board is directed to make necessary corrections in the certificate (Annexure P1), within a period of 2 months from the date of receipt of a certified copy of this order.

11.09.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE