

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

LPA No.482 of 2015

Date of decision:21.5.2015

Abhimanyu

....Appellant

VERSUS

Central Board of School Education

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Rohan Sharma, Advocate for
Mr. Vikram Singh, Advocate for the appellant.

HEMANT GUPTA, J.(Oral)

The appellant has sought correction in the date of birth in the Matriculation Certificate relying upon a Division Bench judgment of this Court reported as Resham Singh v. Union of India and another 2008 (1) RCR (Civil) 131.

In LPA No.1613 of 2014 titled Ambika Kaul v. CBSE and others, decided on 21.05.2015, the said judgment has been examined. It has been held that a person is estopped to seek correction in the date of birth in the Matriculation Certificate once a date of birth is given other than the date of birth given in the certificate issued by the Registrar of Birth and Deaths. The Court held as under:-

“[21] In respect of the persons born prior to the applicability of the The Registration of Births and Deaths Act, 1969 in the Punjab & Haryana and Chandigarh, in the absence of any statutory provisions in respect of the birth, the entry in the matriculation certificate in terms of Section 35 of the Indian Evidence Act, was considered to be a relevant document. A matriculation certificate issued by the School Education Board was made basis of age while entering Government service as per the Civil Services Rules, as reproduced above and applicable in this part of the country. Therefore, even if there was discrepancy between the date of birth in the Municipal record and in the horoscope etc., then the date of birth in the matriculation certificate was made basis of age for the purposes of Government service that is on the basis of document which meets the test of public document in terms of Section 35 of the Evidence Act. However, it was subject to change in the manner prescribed in the Punjab Civil Services Rules and the Financial Rules. Though on the basis of the doctrine of Ante Litem Motam, a person cannot be permitted to dispute the entry of the date of birth in the matriculation certificate, yet the limited right granted to the Government servant could be exercised only in the manner contemplated in Annexure-A, of Punjab Civil Services Rules, as reproduced above. Para 2 of the Annexure A has lost its purpose after enactment of the Act, where the reference is made to other sources of information such as Janam Patris or Horoscope.

[22] But In respect of the persons born after the applicability of the Act, the matter requires to be examined from a different angle. The Act gives statutory recognition to the birth certificates. It is a mandatory requirement for all persons in all conceivable situations to report about the birth and death to the Registration Officers. The Central Board of Secondary Education makes it mandatory to produce date of birth certificate issued by the Registrar of Births and Deaths, wherever existed, as proof of date of birth. If a person does not give date of birth certificate issued by the Registrar at the time of admission to a school, he does it at his own peril. Once he has disclosed a particular date of birth, completed education; he is estopped to rely upon the birth certificate issued by the Registrar of Births and Deaths, at a later stage of life. The admission to a School is to be based upon a date given by the candidate, which date continues to be reflected in the matriculation certificate as well. Therefore, once a candidate has completed his education on the basis of an assumed date, in conflict with the birth certificate

issued by the Registrar of Birth and Deaths, he is estopped to rely upon the birth certificate at the later stage of life.”

It was also held that the date of birth given in the Matriculation Certificate can not be corrected in any case beyond three years of attaining majority. The relevant extract from the said judgment reads as under:-

“[42] The fact is that every person grows with the date of birth as mentioned in the matriculation certificate. He is aware of such date of birth. Giving allowance of minority will lead to uncertainties and inconsistencies in the records of public authorities. Therefore, though a person is estopped to dispute the date of birth entry recorded in the matriculation certificate, but even if he approaches the Civil Court to seek exclusion of the minority period in terms of Section 6 of the Limitation Act, 1963, such suit cannot be entertained after three years from his alleged date of attaining the age of majority. In no case, the date of birth recorded in the matriculation certificate should be corrected after three years of attaining majority on the basis of date of birth in the birth certificate.”

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[45] The right to seek actual date of birth has to be exercised within three years of attaining the majority on the basis of the birth certificate issued by the Registrar of Births and Deaths. But, after expiry of period of three years from the cessation of disability, no person can rely upon the birth certificate. He is bound by the date given in the matriculation certificate. Therefore, in any case, the right of a person to seek actual date of birth on the basis of entry in the birth certificate by the Registrar of Births and Deaths is three years after attaining the majority on the basis of date of birth in the said certificate.”

The date of birth given in the Matriculation Certificate which is at variance with the date of birth recorded in the records of Registrar of Births and Deaths can be corrected on the proof of the

fact that date of birth recorded in Matriculation Certificate was not based upon any declaration or a document filed by the parents of the candidate or that the school has not maintained record of admission in proper manner and in no other circumstance.

In the present case, as per the appellant, the date of birth as per the certificate from the Registrar of Birth and Deaths is 21.08.1990. The appellant has approached this Court in the year 2015 i.e. much beyond the period of three years after cessation of minority.

Consequently, in view of the aforesaid judgment, we do not find any merit in the present appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

MAY 21, 2015
‘D. Gulati’

(LISA GILL)
JUDGE