

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5274 of 2015

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Gunjan Verma, son of Late Sharat Chandra Verma, C/o Sri Brij Mohan Prasad,
Resident of Kaghzi Mohalla, Ranchi Road, P.S.- Bihar Sharif, District- Nalanda

.... Petitioner/s

Versus

1. Central Board of Secondary Education (C.B.S.E.) through Its Secretary, Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi - 110092
2. Chairperson, Central Board of Secondary Education through Its Secretary, Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi - 110092
3. The Regional Officer, Central Board of Secondary Education, 35B, Civil Station, M.G. Marg, Civil Lines, Allahabad -211015
4. The Regional Officer, Central Board of Secondary Education, Ambika Complex, Behind State Bank Colony, Near Brahmsthan, Sheikhpura, Raza Bazar, Bailey Road, Patna
5. The Superintendent, Central Board of Secondary Education, Regional Office, Allahabad
6. The Principal, RPS School, Kachahary Road, Bihar Sharif, Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Pankaj

For the Respondent/s : Mr. Vinay Krishna Tripathy

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 13-05-2016

In this writ application filed under Article 226 of the Constitution of India, the petitioner wants a change in his date of birth recorded in the pass certificate (Annexure-2) issued by the Central Board of secondary Education (for short 'the CBSE') from 23.08.1993 to 23.09.1990. Similarly, a change in the date of birth of the petitioner is also sought in the mark sheet (Annexure-1).

The petitioner appeared at the All India Secondary School Examination in the year 2008 and having passed the examination was issued the mark sheet on 29.05.2008 and the pass certificate of the same date. Both the documents (Annexures-1 and 2) record the date of birth of the petitioner as 23.08.1993. After several years, an application dated 27.01.2015 was filed



seeking change/correction in the date of birth of the petitioner from 23.08.1993 to 23.09.1990. It is stated that soon after giving birth, the mother of the petitioner died on 24.09.1990. As per the date of birth recorded in the pass certificate, the petitioner was aged about 15 years when he passed the Xth examination. Owing to mistake in recording the date of birth in the school register/record and other papers by the maternal grandfather with whom the petitioner was living after the death of his mother, the petitioner was unable to take admission in higher classes or pursue further study for few years. It will be obnoxious situation where the petitioner shall be treated to have been born 03 years after the death of his mother.

A counter affidavit is filed on behalf of the CBSE stating that under the bylaws of the CBSE, no such change/correction in the recorded date of birth is permissible. The bylaws of the CBSE permits correction of the date of birth due to clerical mistake/error where it is established that a wrong entry was made erroneously in the list of the candidates/application form of the candidate for the examination within five years.

Indisputably, in the school record of the petitioner the date of birth is entered as 23.08.1993. The entry was made in the school register on the basis of the form filled up and the date of birth provided for securing admission to the school. This must have been done by the guardian of the petitioner. Similarly, while filling up the form to take examination the date of birth i.e. 23.08.1993 was filled up by the examinee and on the basis thereof the said date of birth was entered in the pass certificate and the mark sheet issued to the petitioner. It is a case of complete substitution of the date of birth and not a mere correction in the date of birth owing to typographical error or human error which is not permissible.

I have heard Mr. Vikash Kumar Pankaj for the petitioner and Mr.

Vinay Krishna Tripathy for the respondent CBSE.

It has been submitted that an anomalous situation of grotesque nature will arise if the correction or change in the date of birth is not permitted as the mother of the petitioner died in 1990. The case of the petitioner has been rejected by the respondent CBSE as time-barred. The respondents, therefore, did not apply their mind to the facts of the case and thereby refused to entertain the application of the petitioner. If the change or correction in the date of birth is not allowed, an incongruous situation shall come to the fore which this Court should guard against in order to do justice. Even the equity demands allowing the case of the petitioner.

Combating the submission of the petitioner, Mr. Tripathy has urged that under the bylaws of the CBSE any such correction in the date of birth can be requested within 05 years. The petitioner knew from the very beginning that his date of birth in the pass certificate as well as the mark sheet was recorded as 23.08.1993. If there was any grave error in recording the same causing serious prejudice to the petitioner, the same could have been brought to the notice of the CBSE for effecting correction. Even otherwise, it is not a case of correction in the date of birth. The petitioner wants a change in the date of birth by replacing 23.08.1993 with 23.09.1990. It is not the case of the petitioner that as per the supporting documents including school records the date of birth of the petitioner was not recorded as 23.08.1993.

While arguing, the counsel for the petitioner placed reliance on Kusum Devi vs. State of Bihar [2004 3 PLJR 655]. The factual matrix of the case is entirely different. The Court in the said case noticed some interpolation in the school records/admission register when, on scrutiny, no material interpolation was found and the Court came to the conclusion that in the record of the school

it was clearly written as 7th April, 1971 and not as 7th April, 1974. Having found so, the application was allowed. In the case at hand no such ground is made out. At the cost of repetition, this Court would notice that it is not the case of the petitioner that the school record including the admission register indicate the date of birth of the petitioner as 23.09.1990 and by mistake while filling up the form the same was entered by the petitioner as 23.08.1993. Whether the mother of the petitioner died in 1990 is not relevant circumstance to be considered for grant of relief. These are questions of facts which do not require to be gone into. What prevented the petitioner from seeking such a relief no sooner he found his incorrect date of birth entered in the mark sheet and the pass certificate issued to him in 2008 by CBSE is quite intriguing. The Court would not delve further on it. Putting the case strictly within the four corners of the legal provision, it appears that any request for correction in the date of birth ought to have been made within 05 years as contemplated in the examination bylaws of the CBSE which has not been done. The delay in doing so without plausible explanation would seal the fate of the case of the petitioner.

Situated thus, this Court is unable to find any merit in this application which is accordingly dismissed.

(Kishore Kumar Mandal, J)

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