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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1903 of 2015

Vicky Singh (Minor) S/o Shri Lakhan Singh, Aged About 17 Years Through His Natural Guardian Father, Shri Lakhan Singh S/o Late Shri Shyam Sunder, Age About 41 Years, R/o Dipupara, Potia Road, Shastri Chwok, Durg, District Durg Chhattisgarh 491001

---- Petitioner

Versus

1. Central Board Of Secondary Education Delhi, Through Its Secretary, Having Its Regional Office At 6th Floor, Alok Bharati Building, Saheed Nagar, Bhubaneswar Odisha 751007
2. Regional Officer, / Assistant Secretary, Central Board Of Secondary Education Regional Office At 6th Floor, Alok Bharti Building, Saheed Nagar, Bhubaneswar Odisha 751007
3. Indu I.T. School, Through Its Principal Kurud Road, Kohka, Bhilai, District Durg Chhattisgarh 490023
4. Angel Valley School, Through Its Principal, Opposite 32 Bungalow, Hospital Sector, Bhilai District Durg Chhattisgarh 490008
5. Surana Public School, Through Its Principal, Mahavir Colony, Durg, District Durg Chhattisgarh 491001

---- Respondents

For Petitioner	:	Shri Anand Dadariya, Advocate
For Respondents 1 & 2	:	Shri P.R. Patankar, Advocate
For respondents No.4	:	Shri Avinash Singh, Advocate

None for respondents No. 3 & 5 though served.

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

17/03/2016

With the consent of learned counsel for the parties, the matter is heard finally.

1. The petitioner, a student, has filed this petition through his guardian, assailing correctness and validity of rejection letter dated 1/3rd June, 2015 issued by respondent No.2. The petitioner has also prayed for direction to respondent No.2 to reconsider the case of the petitioner for correction of his date of birth in the certificate issued to him by respondent No.2.
2. The petitioner claims his date of birth as 27.10.1997. The birth certificate issued by the competent authority under Section 12/17 of the Birth and Death Registrkaran Adhiniyam, 1969, filed as Annexure P-2, records date of birth of the petitioner as 27.10.1997.
3. The petitioner was granted admission in nursery class in Surana Public School/respondent No.5 in the year 2000. In that school, all the records maintained, recorded the date of birth as 27.10.1997. Admission & withdrawal register also records date of birth as 27.10.1997. The petitioner studied in respondent No.5 -School from 1.7.2000 till 27.3.2008.
4. Thereafter, the petitioner took admission in Angel Valley School/respondent No.4. A transfer certificate issued on 31.03.2008 recorded date of birth as 27.10.1997. In this school, the petitioner continued till March, 2011. Thereafter, the petitioner took admission in Indu IT School/respondent No.3. However, at this time, while granting transfer certificate, the month was recorded as 'March' in place of 'October'. The petitioner pursued his studies in respondent No.4-school and passed secondary school examination in January, 2014 and mark sheet issued was 20.5.2014. However, in this mark-sheet (Annexure P-7), the date of birth was recorded as 27.3.1997. Thereafter, the petitioner started making representation for correction. The concerned school also sent a letter dated 27.10.2014 (Annexure P-9) to respondent No.2 to carry out necessary correction stating that the correct date of birth is 27.10.1997 which has been wrongly recorded as 27.3.1997 and on this basis, necessary information was forwarded to the Board. At the time when the petitioner was admitted to class 9th, the respondent No.2 initially required the Principal of the respondent No.3 School vide his memo dated 11/12th November, 2014 (Annexure P-10) to send necessary details, responding to the request for correction of date of birth. The school sent the communication on 9.4.2015 (Annexure P-12) that necessary

information have already been forwarded. However, vide impugned communication, request for change of date of birth has been rejected giving rise to this petition.

5. Submission of learned counsel for the petitioner is that right from the beginning, the Competent statutory authority under the Birth and Death Registration Act, 1969 issued certificate in favour of petitioner vide Annexure P-2 on 17.10.2003 in which the date of birth of the petitioner was recorded as 27.10.1997. This date of birth was recorded in all the records in respondent No.5 school and also in the records of respondent No.4-school. However, while issuing transfer certificate, respondent No.4 school wrongly recorded date of birth as 27.3.1997 which was contrary to its own records. As soon as the mark sheet was issued to the petitioner on 22nd May, 2014 vide Annexure P-7 by respondent No.2, the petitioner immediately made a request to various authorities including the school for sending correct information to the competent authority/respondent No.2. It is submitted that application has been rejected on the basis of amended Bye-Laws which was amended vide circular dated 25.6.2015 whereas the request for change was already made by the petitioner and respondent-school prior to this amendment.
6. Learned counsel for respondent No.2 submits that the entries were made in the records of respondents No. 1 & 2 on the basis of information as was submitted by respondent No.3 . Therefore, it has not committed any mistake. He submits that the Bye-Laws have now been amended and no request for change of date of birth could be entertained after one year from the date of declaration of result.
7. Learned counsel for respondent No.4 submits that it has already informed respondent No.3, corrected the transfer certificate issued by it in favour of the petitioner carrying out necessary correction as 27.10.1997 in place of 27.3.1997 and forwarded to the respondent No.3- school.
8. None has appeared for respondent No. 3 & 5 though served. However, a direct communication has been sent to the Registry by respondent No.3 stating that they have forwarded the request of the petitioner to the Board, copy of which has already placed on record as Annexure P-12.

9. After hearing learned counsel for the parties, I find that respondents No. 1 & 2 recorded date of birth of the petitioner as 27.3.1997 because the information sent to it by respondent No.3 recorded date of birth of the petitioner as 27.3.1997. The pleadings of the parties and documents on record revealed that respondent No.4/School while issuing transfer certificate to the petitioner on the basis of which the petitioner was granted admission in respondent No.3/School, recorded date of birth as 27.3.1997 which was contrary to its own records. It appears that on the basis of this transfer certificate issued by respondent No.4-school, the father of the petitioner while submitting admission form, recorded date of birth as 27.3.1997.
10. However, later on, it is not disputed that respondent No.4- school has corrected the transfer certificate which was issued earlier by it in which his date of birth has now been correctly recorded as 27.10.1997. However, since respondent No.3 school had already sent details of the petitioner to the Board recording his date of birth as 27.3.1997, the Board has rejected petitioner's application .
11. It is apparent that because of the factual mistake committed by respondent No.4 while issuing transfer certificate, the date of birth of the petitioner has wrongly been recorded by respondent No.3 and sent to respondent No.1 & 2 . This entry of date of birth as 27.3.1997 is contrary to the declaration given by the statutory authority in its certificate dated 17.10.2003 (Annexure P-2) and the records maintained by the First School/respondent No.5 as also records maintained by respondent No.4/school.
12. The Bye-Laws have been amended by respondents No. 1 & 2, placed on record as Annexure R-1/3. The circular has been issued on 25.6.2015. In the said Bye-Laws, as amended, Clause 69.2 (iv) provides that application for correction in date of birth, duly forwarded by the Head of school along with documents mentioned in Clause 69.2 (iii), shall be entertained by the Board only within one year from the date of declaration of result and thereafter request for correction shall not be entertained.
13. In the present case, the results were declared and certificate was issued in

favour of the petitioner on 20.5.2014 as it evident from Annexure P-7. The petitioner acted promptly and it is not a case of long delay and sitting over the matter by the petitioner. The petitioner obtained certificate from first school i.e. Surana Public School as back as 21.6.2014 along with certificate dated 8.10.2014, cumulatively filed as Annexure P-8 and on his request, the respondent No.3- school sent letter requesting for correction of date of birth as 27.10.1997 (Annexure P-9) to the Regional Officer/ respondent No.2. Necessary document were also demanded vide Annexure P-10 by respondent No.2 in the month of November, 2014.

14. It was the duty of respondent No.3-school to send the corrected document of the petitioner to the Board for carrying out necessary correction. It appears that respondent No.3-school has sent document which contained incorrect date of birth. It would thus be clear that request for change of date of birth was made promptly at the instance of the petitioner but respondent No.4 school issued corrected transfer certificate showing correct date of birth only on 6.6.2015. For this delay, the petitioner cannot be held responsible. Once the request for correction of date of birth was made within one year, it was the duty of respondent No.2 to make necessary inquiry and make necessary correction in the date of birth taking into consideration all the records particularly taking into consideration the fact that the basis for making entries by respondent No.4 was the certificate issued by respondent No.5 and statutory certificate issued by competent authority under Death and Birth Registration Act, 1969. It is not a case where the petitioner sat over the matter for years together and has requested of correction of date of birth after a long period nor is it a case that the petitioner approached this Court after inordinate delay. It is also found that even as per the amended Bye-Laws, the request for change of birth was made within one year but delay occurred because of necessary correction made in the transfer certificate by respondent No.4.

15. In the result, the petition has to be allowed with direction to respondent 3-School to correct all the records in respect of petitioner's date of birth by recording his date of birth as 27.10.1997 and respondent No. 1 & 2 are also directed to issue corrected mark sheet of the petitioner by showing his date of birth as 27.10.1997 by striking out date of birth as 27.3.1997. The corrected

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certificate shall now be issued by respondent No. 1 & 2 within a period of 3 months from the date of receipt of copy of this order.

16. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen