

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1916 of 2016

1. Ajay Prabhat Tirkey S/o Isdor Tirkey, Aged About 22 Years
R/o Village Patora, Police Station Lundra, District Surguja
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School
Education Department Mahanadi Bhawan, Mantralaya, New
Raipur Chhattisgarh
2. Chhattisgarh Board Of Higher Secondary, Raipur, Through Its
Secretary, Raipur Chhattisgarh
3. The Principal, Cent Xavier's Higher Secondary School,
Ambikapur, District Surguja Chhattisgarh

---- Respondent

For Petitioner	Shri S.S. Masih, Advocate
For Respondent/State	Shri B. Gopa Kumar, Dy. Adv. General

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

01/08/2016

1. In this writ petition, the issue has been raised as to whether
after the stipulated period of limitation, the Board of
Secondary Education, Chhattisgarh can be directed to
consider the application for correction of date of birth in the
High School Certificate Examination.

2. The issue raised in this writ petition is no longer *res integra* in view of the law laid down by this Court in **Sudhir Ram Bhagat v. Secretary, Madhyamik Shiksha Mandal, Raipur and another, 2009 (3) CGLJ 103** and **Yogendra Kumar Rajwade v. The State of Chhattisgarh and others, WPC No.1911 of 2008, decided on 16.12.2014.**
3. In **Yogendra Kumar Rajwade (supra)**, this Court has passed the following order:

“1. The petitioner had appeared in Class Xth examination conducted by the M.P. Board of Secondary Education in the year 1999. In the mark sheet of the said examination, his date of birth was mentioned as 12-1-1981, whereas, according to the petitioner his correct date of birth is 12-1-1983 and this date of birth is mentioned in previous mark sheets. This writ petition has been filed on 27-3-2008 seeking correction in the mark sheet.

2. Relying on the law laid down by this Court in the matter of **Sudhir Ram Bhagat Vs. Secretary, Madhyamik, Shiksha Mandal, Raipur and Another, 2009 (3) CGLJ 103**, learned counsel for the respondent Board would submit that prayer for correction of entry concerning date of birth in the mark sheet cannot be considered after lapse of three years from the date of issuance of mark sheet.

3. In view of the settled legal position, the direction prayed for cannot be granted. In the matter of **Sudhir (supra)**, liberty was reserved in favour of the petitioner to take recourse to the

competent civil Court for declaration of his date of birth, the present petitioner is also entitled for the similar liberty. He may also prefer a civil suit before the jurisdictional civil Court, if so advised.

4. In view of the above, the writ petition is disposed of.”

4. Similarly, in **Anupam Kumar Soni S/o Ram Prakash Soni v. State of Chhattisgarh and others, (WPC No.1612 of 2015 and other connected petitions, decided on 26.02.2016)**, this Court has followed its earlier orders passed in **Sudhir Ram Bhagat** (supra) and **Yogendra Kumar Rajwade** (supra).
5. In **Board of Education of Assam v. Md. Sarifuz Zaman and others, (2003) 12 SCC 408**, the Supreme Court has considered the credibility of the entries made in the certificate issued by the Board of Secondary Education in the following words :

10. “Nobody can claim a right to have an entry corrected in a certificate solemnly issued by an educational institution, that too the one enjoying the status of a statutory Board under the Act. The right of the applicant to have an error or mistake corrected is accompanied by a duty or obligation on the part of the Board to correct its records and the certificate issued by it. Not only it is a corresponding duty or obligation, it has also to be perceived as a power exercisable by the Board to correct an entry appearing in the certificate issued by it. People,

institutions and government departments etc. all attach a very high degree of reliability, near finality, to the entries made in the certificates issued by the Board. The frequent exercise of power to correct entries in certificates and that too without any limitation on exercise of such power would render the power itself arbitrary and may result in eroding the credibility of certificates issued by the Board. We, therefore, find it difficult to uphold the contention that the applicants seeking correction of entries in such certificates have any such right or vested right.

12. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone. There ought to be a limit of time by which human affairs stand settled and uncertainty is lost. Regulation 8 confers a right on the applicant and a power coupled with an obligation on the Board to make correction in the date of birth subject to the ground of wrong calculation or clerical error being made out. A reasonable procedure has been prescribed for processing the application through the Inspector of Schools who would verify the School records and submit report to the Board. There so as to exclude from consideration the claims other than those permissible within the framework of Regulation 8. Power to pass order for correction is vested on a high functionary like Secretary of the Board. An inaccuracy creeping in at the stage of writing the certificates only, though all other prior documents are correct in all respects, is capable of being corrected within a period of three years

from the date of issuance of
certificate.”

(Emphasis supplied)

6. It is, thus, aptly clear that the prayer made by the petitioner for change of date of birth is not moved within the prescribed time, therefore, the rigor of the law laid down in the matters of **Sudhir Kumar Bhagat** (supra), **Yogendra Kumar Rajwade** (supra) and **Board of Education Assam** (supra) squarely applies in the present case.
7. Accordingly, the directions prayed for in the present writ petition cannot be granted in favour of the petitioner, however, liberty is reserved in favour of the petitioner to take recourse to the jurisdictional Civil Court for declaration of his date of birth, which he claimed to be correct date of birth. If duly constituted Civil Suit is preferred by the petitioner, the Civil Court shall proceed to decide the suit in accordance with law at the earliest.

Sd/-

Judge

Prashant Kumar Mishra

Gowri