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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.1612 of 2015**

Anupam Kumar Soni S/o Shri Ram Prakash Soni, Aged About 39 Years
R/o In Front Of Shrishti Block Quarter No.1, Ashiyana Face No.1, Awanti
Bihar, Sector No.2, Raipur, (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Directorate Department Of Education,
Thana Naya Raipur Secretariat, Mahanadi Bhawan, Raipur, Chhattisgarh
2. Chhattisgarh Madhyamic Shiksha Mandal, Raipur, Through The Secretary
Chhattisgarh Madhyamic Shiksha Mandal, Raipur, Bairun Bazar, Thana
Bairun Bazar, Distt. Raipur, (Chhattisgarh)

---- Respondent**And****WPC No. 389 Of 2016**

Smt. Swati Singh W/o Shri J.P. Sharma, Aged About 30 Years R/o L I G
B/01, Nehru Nagar (East), Bhilai, Distt. Durg, (Chhattisgarh)

---- Petitioner**Vs**

1. State Of Chhattisgarh Through The Secretary, Education Department,
Mahanadi Bhawan, Post Office Mantralaya, P.S. Rakhi, Naya Raipur,
District Raipur (Chhattisgarh) Pin 492002
2. Chhattisgarh Board Of Secondary Education, Raipur, Through The
Secretary, Chhattisgarh Board Of Secondary Education, Indravati
Bhawan, Post Office Mantralaya, P.S. Rakhi, Naya Raipur, District Raipur,
(Chhattisgarh) Pin 492002.
3. The Assistant Secretary, Chhattisgarh Board Of Secondary Education,
Indrawati Bhawan, Post Office Mantralaya, P.S. Rakhi, Naya Raipur,
District Raipur, (Chhattisgarh) Pin 492002

---- Respondent**And****WPC No. 1613 Of 2015**

Abhishek Kumar Soni S/o Shri Ram Prakash Soni, Aged About 37 Years
R/o In Front Of Shrishti Block Quarter No.1, Ashiyana Face No.1, Awanti
Bihar, Sector No.2, Raipur, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Directorate Department Of Education,
Thana Naya Raipur Secretariat, Mahanadi Bhawan, Raipur, Chhattisgarh
2. Chhattisgarh Madhyamic Shiksha Mandal, Raipur, Through The Secretary
Chhattisgarh Madhyamic Shiksha Mandal, Raipur, Bairun Bazar, Thana
Bairan Bazar, Distt. Raipur, (Chhattisgarh)

---- Respondent

And

WPC No.1634 Of 2015

Ku. Yamini Sahu D/o Sunil Kumar Sahu, Aged About 21 Years R/o Village
Khamhariya, Tahsil And District Durg Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through the Secretary, School Education
Department, Mantralaya, Mahandi Bhawan, New Raipur, District Raipur
Chhattisgarh
2. Chhattisgarh Madhyamic Shiksha Mandal, Through The Secretary,
Chhattisgarh Madhyamic Shiksha Mandal, P.S. City Kotwali, Raipur,
District Raipur Chhattisgarh

---- Respondent

Present:-

Shri N. K. Malviya with Shri Vipin Tiwari and Shri K. K. Dewangan, counsel for
respective petitioner.

Shri Satish Gupta, GA for State.

Shri Manoj Paranjpe, counsel for respondent-CBSE, Raipur.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

26/02/2016

Heard.

2. These petitions are being disposed off by a common order because petitioner in all the aforesaid petitions are seeking correction/modification in the mark sheets issued to them by the Board of Secondary Education (In short "the Board").

3. In WPC Nos.1612 & 1613 of 2015, learned counsel for petitioner submits that an application was made to the Board by two brothers-petitioners for correction in the mark sheets in so far as surname of the petitioners are concerned. Learned counsel for petitioners submits that while issuing mark sheet to the petitioner-Anupam Kumar Soni in the year 1991, his surname was wrongly mentioned as Katelia whereas it ought to be Soni because name of his father is Shri Ram Prakash Soni. Thereafter, in the 12th Mark sheet issued in the year 1994, the petitioner's father name was mentioned as Ram Prakash Sonkar whereas the name of petitioner is mentioned as Anupam Kumar without any surname. These discrepancies were noticed by the petitioners and application was before the Board on 04-09-2014 for correction of their names/surnames etc., but the Board has rejected the prayer by stating that at this distance of time, it is not permissible. Hence, the petitioners have approached this Court.

4. Learned counsel for petitioner in WPC No.389/2016 submits that present is a case with regard to typographical mistake in place of year of birth as 1985, it has been wrongly mentioned as 1958. Learned counsel submits that it is apparent typographical mistake because no stretch of imagination, the petitioner can be said to be born in the year 1958, at the time when she had taken up the

board examination. Therefore, the petitioner has applied for correction of typographical mistake in the certificates.

5. Learned counsel for petitioner in WPC No.1634/2015 submits that the date of birth of the petitioner has been wrongly recorded as 21-09-1993 whereas correct date of birth of the petitioner is 26-08-1993.

6. Learned counsel for the respective petitioner raised common submission that the respondent-Board is under an obligation to issue correct certificates to the petitioners and only because the petitioners applied belatedly, it cannot be made a basis for rejection of their application. Learned counsel for petitioner in WPC Nos.1612 & 1613 of 2015 argued that the recently, the prescription of 20 years adopted by the board as time limit to carry out corrections of date of birth will not apply retrospectively but it will apply from the date the decision was taken, therefore, the application of the petitioners were within the limitation.

7. On the other hand, learned counsel for the respondent-board opposed the prayer and submits that all the petitions are liable to be dismissed on the ground of delay and laches. He submits that these petitions have been filed after lapse of 6 years, 13 years and 23 years. He further submits that according to Board's own guidelines, correction of date of birth would take place only within a period of 3 years from the date of issuance of mark sheet. In other case, seeking correction of other details except the date of birth, the application could be made within a period of 20 years from the date of declaration of the result. The prayer for changing date of birth has been made, after expiry of 3 years whereas prayer for changing other details i.e. name/surname has been made, after about 23 years. It is further submitted that this issue has already been considered by this Court earlier in the cases of **Sudhir Ram Bhagat vs. Secretary, Madhyamik**

Shiksha Mandal, Raipur & Another¹, Yogendra Kumar Rajwade vs. The State of Chhattisgarh & Others², Punit Yadav vs. Chhattisgarh Madhyamik Shiksha Mandal, Raipur & Others³, Board of Secondary Education of Assam vs. Md. Sarifuz Zaman and others, Prabhakar vs. Joint Director Sericulture Department & Anr.⁴ and Rajbali Singh vs. Board of Secondary Education⁵.

The issue raised in these petitions is no longer res integra in view of the order passed by the learned Single Judge of this Court in the case of Sudhir Ram Bhagat (supra).

8. In the aforesaid decision, relying upon the various judgments of the Supreme Court and the High Court of Madhya Pradesh, it was held that no relief can be granted to the petitioners. All these petitions were filed after great delay.

9. In a decision in the case of ***Board of Secondary Education of Assam*** (supra), the Supreme Court emphasized that the entries made in the certificates issued by the Board of Secondary Education should not be allowed to be changed or corrected time and again, else the very sanctity and authenticity of the entries made in the certificates will lose its significance. The aspect of delay was also highlighted. It was held:

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

1 2009 (3) CGLJ 103

2 WPC No.1911/2008, decided on 16-12-2014

3 WP No.2845/2005, decided on 14-11-2008

4 2015 (10) Scale 114

5 2001 (5) MPHT 165

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 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.”

10. In view of above, it is clear that once the application is filed beyond the prescribed period, the respondent-board cannot be directed to carry out any correction/modification. Subject to direction regarding correction of typographical mistake regarding date of birth of the petitioner in WPC No.389-2016 (**Smt. Swati Singh**), no direction can be issued in other cases.

11. In the result, WPC No.389/2016 is allowed. Other petitions i.e. WPC Nos.1612, 1613 & 1634 of 2015 are dismissed. However, the respective petitioner in WPC Nos.1612, 1613 & 1634 of 2015 would be at liberty to take

recourse to appropriate civil remedy as observed in the case of Sudhir Ram Bhagat (supra).

Sd/-
Manindra Mohan Shrivastava
Judge