

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.25678 of 2014

P.Tamil Selvan

... Petitioner

Vs.

1. The Director of School Education,  
Chennai-6.
2. The District Collector,  
Tiruchirapalli.
3. The Chief Educational Officer,  
Tiruchirapalli.
4. The Revenue Divisional Officer,  
Musiri, Trichy District.
5. The District Adi Dravida Welfare Officer,  
Trichy.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in connection with the impugned order passed in Mu.Mu.4122/M/E3/2014, dated 21.03.2014 and quash the same and direct the respondents to alter the date of birth of the petitioner as 17.11.1952 instead of 25.12.1951 and further direct the respondents to make correction in the SSLC Certificate, Higher Secondary Certificate and other connected educational certificates.

For Petitioner : Mr.K.Venkataramani,  
Senior Counsel for Mr.M.Muthappan

For Respondents : Mr.S.Pattabiraman,  
Government Advocate

## ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in connection with the impugned order passed in Mu.Mu.4122/M/E3/2014, dated 21.03.2014 and quash the same and direct the respondents to alter the date of birth of the petitioner as 17.11.1952 instead of 25.12.1951 and further direct the respondents to make correction in the SSLC Certificate, Higher Secondary Certificate and other connected educational certificates.

2. It is the case of the petitioner that he was born on 17.11.1952 at Tiruthalaiyur Village, Musiri Talulk to his parents: Pitchai Karan Moopan and Periakkal. His date of birth was duly registered in the Register of Birth and Deaths in the Sub-Registrar Office, Musiri on 20.11.1952. However, at the time when the petitioner was admitted to the School, since the petitioner's parents are illiterates, they were not aware of the implications and his date of birth was wrongly given as 25.12.1951. The petitioner thereafter applied for Birth Certificate from Musiri Sub-Registrar Office and found that his date of birth was shown as 17.11.1952 and a wrong entry was made at the time of admission to the School, which had crept in the School records. It is his further case that he completed the School in Adi Dravida Welfare High School in 1971-72. He is a Bachelor Degree holder in History; completed the law course in Madras University in 1981 and enrolled his name as a Member of Bar Council of Tamil Nadu on 02.03.1983 and was practising as an Advocate. Subsequently, he has been appointed as State Information Commissioner and has been serving as such. The petitioner made a representation to the District Educational Officer, Trichy and also to the fifth respondent on 01.09.2002, which was referred to the third respondent, who in turn referred the matter to the fourth respondent for enquiry and to submit a report. The fourth respondent summoned the petitioner for enquiry and the petitioner also submitted all the relevant documents and after examination of the witnesses, he submitted a report to the second respondent, which was forwarded to the first respondent through the third respondent, for orders. Without considering the recommendation, the first respondent passed the impugned order on 21.03.2014, rejecting the claim of the petitioner for correction of date of birth, on the ground that it can be done only through Adi Dravida Welfare Department, as the petitioner studied in Adi Dravida Welfare School; that the educational documents can be altered only through Court orders and that the petitioner did not submit any document to show that while in Government service, he applied for the correction of his date of birth.

3. It is the further case of the petitioner that the date of birth of the petitioner is much earlier to the advent of the Registration of Births and Deaths Act and the Rules framed thereunder. The said Act came into force only on 02.06.1969, whereas the petitioner's date of birth is 17.11.1952. It is stated by the petitioner that Section 15 of the said Act deals with the correction or cancellation of the entries in the Register of Births and Deaths; that Section 16 of the said Act deals with the direction to the Registrar to keep the registers in the prescribed form and that Rule 11 of the Tamil Nadu Registration of Births and Deaths Rules deals with correction or cancellation of entry in the Register of Births and Deaths under Section 15 of the said Act. The petitioner further stated that the provisions of the said Act (Central Act) will prevail over the Tamil Nadu Rules framed under the said Act. It is the grievance of the petitioner that the reasons stated by the first respondent in the impugned order, are not sustainable. Hence, the petitioner has filed this Writ Petition for the above relief.

4. When the Writ Petition is taken up for consideration, learned Senior Counsel appearing for the petitioner submitted that in an identical case in W.P.No.23716 of 2014, this Court, by order dated 03.03.2015, allowed the Writ Petition by following the earlier of this Court in W.P.(MD) No.9340 of 2009, dated 18.09.2012. The relevant portion of the order dated 18.09.2012 passed in W.P.(MD).No.9340 of 2009, reads as follows:

"27. The Tamil Nadu Registration of Births and Deaths Rules, 2000 have come into force with effect from 01.01.2000. Rule 11, deals with the correction or cancellation of entry in the register of births and deaths under Section 15 and that the same is extracted hereunder:

"11. Correction or cancellation of entry in the register of births and deaths under Section 15:  
(1) If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him and if the register is in his possession, the Registrar shall enquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or cancelling the entry) as provided in section 15 and shall in the case of local authorities specified in column (1) of the Table below, send an extract of the entry showing the error and how it has been corrected to the officer specified in column (2) thereof.

Table

| Local Authorities<br>(1)       | Officers<br>(2)                |
|--------------------------------|--------------------------------|
| Village Panchayat              | Village Panchayat<br>President |
| Town Panchayat                 | Executive Officer              |
| Cantonment                     | Executive Officer              |
| Municipality                   | Commissioner                   |
| Corporation                    | Commissioner                   |
| Neyveli Lignite<br>Corporation | Chief Health Officer           |

(2) In the case referred to in sub-rule(1), if the register is not in his possession, the Registrar shall make a report to the officer specified in the Table in sub-rule (1) and call for the relevant register and after enquiring into the matter, if he is satisfied that such error has been made make necessary correction.

(3) Any such correction as mentioned in sub-rule(2) shall be countersigned by the officer specified in the Table in sub-rule (1) in this behalf when the register is received from the Registrar.

(4) If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case.

(5) Notwithstanding anything contained in sub-rules (1) and (4), the Registrar shall make a report of any correction of the kind referred to therein giving necessary details to the officer specified in the Table in sub-rule(1).

(6) If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been fraudulently or improperly made, he shall make a report giving necessary details to the officer authorised by the Chief Registrar by general or special order in this behalf under Section 25 and on hearing from him take necessary action in the matter.



(7) In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information under section 8 or section 9".

28. Reading of the statutory provisions makes it clear that the Act provides for correction or cancellation of entry in the register of births and deaths. The decision relied on by the respondents in their counter affidavit rendered in W.P.No.4244 of 1965, dated 26.10.1965 and reported in 1966 MLJ 80, is prior to the introduction of Registration of Births and Deaths Act, 1969 and the rules framed thereunder.

29. Subsidiary Rule 5 of the Secondary School Leaving Certificate scheme, relied on by the respondents to contend that the application for alteration in the date of birth will not be entertained after a pupil had completed his course or appeared for the S.S.L.C public examination also is much earlier to the advent of the Registration of Births and Deaths Act, 1969 and the rules framed thereunder. Needless to say that the provisions of any Central Act, will prevail over the State Act or the rules or regulations, framed by the latter, on the same subject. When the statutory provisions stated supra, enable the competent authorities under the Registration of Births and Deaths Act, 1969, to make correction or cancellation as the case may be, the contention of the respondents that no alteration is permissible in the school records, after the student leaves the secondary education cannot be countenanced.

30. As stated supra, as per the birth certificate issued by the Sub Registrar, Thiruvattar enclosed in the typed set of papers, the name of the child entered in the said certificate is S.Rajesh Kumar. The date of birth has been shown as 19.01.1975. When the statute provides for correction or cancellation of an entry in the register of births and deaths maintained by the Sub Registrar after coming into force of the Act, the said certificate can be relied on for making necessary changes in public records which includes the records maintained in the office of the Director of Government Examinations Chennai. The contention of the respondents that the said correction can be made only before the student leaves the school and not later, cannot be accepted for the reason that any entry in the birth certificate by virtue of registration or alteration or

cancellation by the competent authority under the Registration of Births and Deaths Act, 1969, has to be given effect to otherwise, the purpose for registration or alteration or modification would be defeated. There cannot be different entries in the public records maintained by different authorities, one under the Registration of Births and Deaths Act, 1969 and the other by the educational authorities. The date of birth as entered in the birth extract has to be entered in all the public records uniformly, unless and until any statutory rules, restrict such entry, like in the case of a Government servant, governed by the Tamil Nadu State and Subordinate Services Rules. In the light of the above discussion, this Court is not inclined to accept the objections of the educational authorities made on the basis of the Subsidiary rules framed before the introduction of the Central Act, 1969.

31. In the light of the decision made in W.P.No.9800 of 2009, dated 21.10.2009 in R.Deepak Vs.The Chairman Tamil Nadu Uniform Service Recruitment Board, Chennai and two others, the certificate issued by the competent authority under Registration of Births and Deaths Act, 1969, and other supporting documents relied on by the present writ petitioner has to be considered.

32. For the foregoing reasons, the writ petition is allowed. There shall be a direction to the respondents to consider the birth extract and other evidence produced by the petitioner while considering his representation, dated 03.09.2009 and make necessary changes, in the date of birth as 19.01.1975 in the Secondary School Leaving Certificate and the Higher Secondary Course and other certificates. The petitioner is at liberty to make a representation to the respondents along with a copy of this order and that he shall produce the original certificates for making necessary corrections. No costs.

5. Heard the submissions of the learned Government Advocate appearing for the respondents based on the averments made in counter affidavit.

6. The issue involved in the present Writ Petition is covered by the above said decisions of this Court in W.P.(MD). No.9340 of 2009, dated 18.09.2012 and also in W.P.No.23716 of 2014, dated 03.03.2015. Accordingly, this Writ Petition is also allowed, setting aside the impugned order, dated 21.03.2014

passed by the first respondent. The matter is remanded to the first respondent to consider the case of the petitioner afresh. The first respondent shall issue notice to the petitioner to produce all relevant records including the Birth Certificate, so as to effect the change in the date of birth of the petitioner. The first respondent is directed to comply with the above direction within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-  
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of School Education,  
Chennai-6.
2. The District Collector,  
Tiruchirapalli.
3. The Chief Educational Officer,  
Tiruchirapalli.
4. The Revenue Divisional Officer,  
Musiri, Trichy District.
5. The District Adi Dravida Welfare Officer,  
Trichy.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.15152  
+1cc to the Government Pleader, S.R.No.14996

AK(CO)  
CA(22/03/2016)

W.P.No.25678 of 2014

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