

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.25021 of 2015

& M.P.No.1 of 2015

Randhir Singh

.. Petitioner

Vs.

1. The Regional Officer,
Central Board of Secondary Education,
New No.3, Old No.1630A,
'J' Block, 16th Main Road,
Anna Nagar West, Chennai-600 040.

2. The Principal,
Kendriya Vidyalaya,
No.1, AFS, Sambra,
Belgaum, Karnataka-591 124.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records and to quash the first respondent's letter dated 09.05.2014 and 26.03.2015, vide letter Ref.No.RO(M)/Corrn/Rejection/DOB/2014/5796 and further direct the first respondent to change the date of birth of petitioner's son Prateek Singh (Roll No.4127247/2009) in their records and issue a fresh certificate reflecting the same.

For Petitioner : Mr.P.N.Vignesh

For Respondents : Mr.G.Nagarajan for R-1
Mr.M.Vaidyanathan for R-2

ORDER

The prayer in the Writ Petition is for issuance of a Writ of Certiorarified Mandamus to call for the records and to quash the first respondent's letter dated 09.05.2014 and 26.03.2015, vide letter Ref.No.RO(M)/Corrn/Rejection/DOB/2014/5796 and further direct the first respondent to change the date of birth of the petitioner's son Prateek Singh (Roll No.4127247/2009) in their records and issue a fresh certificate reflecting the same.

2. It is the case of the petitioner that he served as an Air Warrior in Indian Air Force in various regions and while he was serving in Guwahati region, he got the admission for his son Prateek Singh, who was born on 22.11.1993, in Kendriya Vidyalaya, Awantipur. During the petitioner's tenure in various places, his son studied in Kendriya Vidyalaya/Air Force schools of such places and his son is pursuing higher education. It is the further case of the petitioner that in the Air Force records, the details of the petitioner's son's date of birth was wrongly mentioned as 22.01.1994 instead of 22.11.1993 and the same was also mentioned in his school records. Later, the petitioner realised that if the error continues, it would affect his son's career and job opportunities. Hence, the petitioner approached the respondents, who directed the petitioner to approach the school authorities and hence, he approached the school authorities for rectification of the date of birth of his son. On 25.07.2014, the school authority forwarded to the petitioner the communication received from the first respondent, vide letter dated 09.05.2014, in which, it is stated that the request to correct the date of birth of the petitioner's son in the school records, was not considered and directed the petitioner to send a filled proforma enclosed therein. Thereafter, the petitioner filled the proforma and sent it to the first respondent, and the said request for correct of date of birth was rejected, vide letter dated 26.03.2015. In the meanwhile, the petitioner approached the Air Force authorities and corrected the date of birth of his son. It is the grievance of the petitioner that the letters dated 09.05.2014 and 26.03.2015 of the first respondent, were lost in transit and hence, necessary correction of date of birth of his son has not been carried out in the school records. Therefore, the petitioner has filed this Writ Petition for the above relief.

3. The first respondent has filed counter affidavit and relied on CBSE Examination Bye-law 69.2, and in the counter affidavit, the same was extracted, which reads as follows:

"69.2 Change/correction in date of birth:

(i) No change in the date of birth once recorded in the Board's records shall be made. However, corrections to correct typographical and other errors to make the certificate consistent with the school records can be made provided that corrections in the school records should not have been made after the submission of application form for admission to Examination to the Board.

(ii) Such correction in date of birth of a candidate in case of genuine clerical errors will be made under orders of the Chairman where it is established to the satisfaction of the Chairman that the wrong entry was made erroneously in the list of

candidates/application form of the candidate for the examination.

(iii) Request for correction in date of birth shall be forwarded by the Head of the School along with attested photostat copies of:

(a) Application for admission of the candidate to the school;

(b) portion of the page of admission and withdrawal register where entry in date of birth has been made along with attested copy of the Certificate issued by the Municipal Authority, if available, as proof of date of birth submitted at the time of seeking admission; and

(c) the School Leaving Certificate of the previous school admitted at the time of admission.

(iv) the application for correction in date of birth duly forwarded by the Head of School along with documents mentioned in Bye-law 69.2 (iii) shall be entertained by the Board only within one year of the date of declaration of result. No correction whatsoever, shall be made on application submitted after the said period of one year."

4. It is further stated in the counter affidavit that the Certificate was issued on 26.05.2009, while the request for correction of date of birth was made to CBSE on 28.02.2014 only after a period of four years, and hence, it was clearly informed to the petitioner that his request cannot be entertained, as the same was not made in time.

5. In the additional counter affidavit filed by the first respondent, it is stated that already, by order dated 20.05.2014 communicated to the second respondent-School, it has been clearly stated that the request for correction of the date of birth is rejected. On verification of the school records, it is found that whatever the date of birth that has been furnished by the School, had been mentioned in the Certificate issued by the CBSE and therefore, the CBSE rejected the request made by the petitioner. It is further stated that, again the petitioner made a request on 10.08.2014 to re-consider the rejection, and by subsequent communication, dated 26.03.2015, the first respondent again rejected the request of the petitioner. The rule for filing the application for correction of date of birth within five years from the date of issuing the Certificate, is subsequently amended as one year, vide Circular, dated 25.06.2015. Therefore, the first respondent prayed for dismissal of the Writ Petition.

6. Learned counsel for the petitioner submitted that originally, as per Bye-law 69.2(iv) of the CBSE Examination Bye-laws, the correction of date of birth has to be made within a period of five years from the date of declaration of the results and the said Bye-law was amended only on 25.06.2015, whereas the petitioner submitted the application for correction of date of birth of his son on 28.02.2014, and therefore, the amendment of Bye-law will not apply to the case of the petitioner.

7. Learned counsel for the first respondent vehemently opposed for entertaining the request of the petitioner.

8. This Court also heard the submissions made by the learned counsel for the second respondent on the above aspects.

9. However, considering the submissions made on either side, this Court is of the opinion that since the petitioner has made his request for changing the date of birth of his son, much prior to the amendment of the above said Bye-law, it is appropriate to direct the first respondent to consider the request of the petitioner with regard to the change of date of birth of his son in their records and issue a fresh certificate reflecting the correction.

10. According, the petitioner is directed to give a fresh representation to the first respondent, within a period of two weeks from the date of receipt of a copy of this order and enclose a copy of this order and all necessary original documents, with regard to the change of date of birth of his son Prateek Singh and on receipt of such representation, the first respondent is directed to conduct enquiry and pass appropriate orders on the said representation within a period of four weeks from the date of receipt of such representation from the petitioner. The Writ Petition is disposed of accordingly. No costs. The Miscellaneous Petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

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Sub-Assistant Registrar

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Copy to

1. The Regional Officer,
Central Board of Secondary Education,
New No.3, Old No.1630A,
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Anna Nagar West, Chennai-600 040.
2. The Principal,
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Belgaum, Karnataka-591 124.

+1 cc to Mr.P.N.vignesh Advocate sr.8733
+1 cc to Mr.M.Vaidyanathan Advocate sr.8999
+1 cc to Mr.G.Nagarajan Advocate sr.8950

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