

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.4621 of 2013

V.Sri Ramakrishnan

...Petitioner

Vs

1.Central Board of Secondary Education,
Regional Officer, New No.3, J Block,
16th Main Road, Anna Nagar West,
Chennai - 40.

2.The Principal, GK Shetty,
Vivekananda Vidyalaya Junior College,
C.T.H.Road, Ambattur, Chennai -53.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the first respondent to correct date of birth of the petitioner in the X mark statement as 24.11.1994 instead of 24.11.1993 issued by the first respondent.

For Petitioner : Mr.S.Ramajayam
For Respondents : Mr.G.Nagarajan for R1
M/s.Gupta and Ravi for R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that he was born on 24.11.1993 at Sir Ivan Stedeford Hospital, Ambattur, Chennai and as per the live birth report issued by the hospital, he was born on that date. Even in the certificate of birth issued by Avadi Municipality, the date of birth of the petitioner has been entered as 24.11.1993 and so also in the application for admission to G.K.Shetty Vivekananda Vidyalaya Junior College, Ambattur, Chennai. The petitioner was issued with LIC Policy bearing No.715896183, wherein, it has been stated that the petitioner was born on 24.11.1993. However, according to the petitioner, in the X mark list, the date of birth has been

recorded as 24.11.1994 instead of 24.11.1993. Hence, the petitioner has approached the first respondent in the form of representation to correct the date of birth and it was rejected on 14.06.2010 relying upon Rule 69.2(i) of the Examination Bye Laws of the Board.

3. The learned counsel for the petitioner would submit that though the petitioner prayed for issuance of mandamus, in the light of the facts and circumstances, it may be treated as a writ of Certiorarified mandamus and would further submit that in the light of the overwhelming documents filed in the typed set of papers, there cannot be any impediment on the part of the first respondent to correct the date of birth of the petitioner as 24.11.1993 instead of 24.11.1994.

3. The learned counsel placed reliance upon the following judgments:

- i) Rajesh Kumar Jain v. The Secretary, CBSE and others [AIR 1999 Delhi 395]
- ii) Km.Para v. Director, Central Board of Secondary Education [C.W.P.No.7623 of 2003 dated 30.04.2004] and
- iii) The Central Board of Secondary v. Rahul [W.A.No.1948 of 2008 dated 05.08.2009]

4. Per contra, the learned Standing Counsel appearing for the first respondent has drawn the attention of this Court to the counter affidavit and would submit that in the light of Rule 69.2 (i) of the Examination Bye Laws of the Board, the request made by the petitioner cannot be granted and prays for dismissal of the writ petition.

5. This Court has carefully considered the rival submissions made on either side and also perused the materials placed before it.

6. It is relevant to extract amended CBSE Examination Bye laws 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."

7. A perusal of the typed set of documents would prima facie indicate that the petitioner was born on 24.11.1993 and not on 24.11.1994. Even in the transfer certificate issued by the school in which he had undergone studies, the date of birth is indicated as 24.11.1993 only. The judgements relied on by the learned counsel appearing for the petitioner has also taken note of the inadvertent mistake committed by the concerned institution or parents while entering the date of birth in the relevant records and therefore, passed positive orders directing the first respondent Board to make necessary correction.

8. In the light of the above facts and circumstances, the writ petition is partly allowed and the order of the first respondent dated 14.06.2010 in RO (M)/CORRN/REJECTION/DOB/2010/335 is set aside the matter is once again remanded to the first respondent, who shall issue notice of hearing to the petitioner, within a period of two weeks from the date of receipt of a copy of this order and also afford an opportunity of personal hearing either to the petitioner or to his parents and thereafter, decide the issue in accordance with law and in the light of the observations made in this writ petition, within a period of four weeks thereafter and communicate the decision taken to the petitioner. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

svki

To

The Regional Officer,
Central Board of Secondary Education,
New No.3, J Block,
16th Main Road, Anna Nagar West,
Chennai - 40.

+1 cc to Mr.G.Nagarajan Advocate sr 48909

+1 cc to Mr.S.Ramajayam Advocate sr 48793

W.P.No.4621 of 2013

aa20/09/2016