

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.32454 of 2015
& M.P.No.1 of 2015

S. Kondusamy

.. Petitioner

Vs.

1. Regional Officer,
Central Board of Secondary Education
(Regional Office)
New Number 3 (Old No.1630-A),
"J"Block, 16th Main Road,
Chennai 600 040.

2. SBOA School and Junior College,
represented by its Principal,
Anna Nagar (West) Extension,
Chennai 600 101.

.. 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 of the 1st respondent bearing number CBSE/RO(M)/CORRN/REJN/4430/2015 dated 11.8.2015 and quash the same with the consequential direction to the 1st respondent to make correction in the date of birth of petitioner's son K.Aswin Lakshmi Narayanan in the certificate bearing No.M/10/06976/420730 dated 28.5.2010 of the secondary school examination by the Controller of examinations, Central Board of Secondary Education.

For Petitioner : Mr.H. Nazirudeen

For Respondents : Mr.G.Nagarajan for R-1

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 11.08.2015 vide letter CBSE/RO(M)/CORRN/REJN/4430/2015 and further direct the 1st respondent to make correction in the date of birth of petitioner's son K.Aswin Lakshmi Narayanan in the certificate bearing No.M/10/06976/420730 dated 28.5.2010 of the secondary

school examination by the Controller of examinations, Central Board of Secondary Education.

2. It is the case of the petitioner that the petitioner's son is pursuing B.S. (Material Engineering) in Indian Institute of Science, Bangalore. He joined the course in the year 2012 and is likely to be completed the course in the month of April 2016. The petitioner 's son is now intended to pursue his higher studies at USA after completion of his studies in Indian Institute of Science, Bangalore.

3. The petitioner, while studying in 2nd respondent's school, passed his secondary school examinations of the Central Board of Secondary Education on 28.5.2010. It is the case of the petitioner that in the certificate issued by the Board, the date of birth of his son was incorrectly recorded as 9.5.1995 instead of 9.1.1995 contrary to the birth certificate issued in Form-5 under Rule 8 of Registration of Births and death Rules. On noticing the same in his sons's certificate, after completion of his studies in the school, the petitioner immediately approached the Principal of 2nd respondent school for taking necessary steps in order to make correction on 24.6.2010 and inspite of representations made several times on 25.11.2010, 23.3.2011, 8.12.2011, 16.2.2012, 18.10.2012, 11.7.2013, 10.4.2014, the school authorities have not evinced any interest to rectify the clerical error occurred in date of birth. However, the petitioner made arrangement to put his son in Indian Institute of science, Bangalore. Thereafter the petitioner who obtained a passport for his son in terms of birth certificate issued by Corporation of Chennai made a requisition to the Regional Officer to make necessary correction in the certificate issued to his son through the Principal of the School. On 11.8.2015, the Regional Officer, the 1st respondent herein rejected the request of the petitioner by quoting Exam Bye Laws of the board dated 25.6.2015 stating that the application for correction in date of birth duly forwarded by the Head of School along with requisite documents shall be entertained by the board only within one year of the date of declaration of result and no correction whatsoever, shall be made on applications submitted after the said period of one year.

4. It is the grievance of the petitioner that the request for the change of date of birth in the birth certificate of the petitioner's son has been rejected by the competent authority only on the ground that as per rules of Examination By Laws of

the respondent board, it was not permissible to consider the request of the petitioner to correct the date of birth in the school certificate after a period of one year from the date of declaration of examination results. Therefore, the petitioner has filed this Writ Petition for the above relief.

5. The first respondent has filed counter affidavit inter-alia stating that whatever the date of birth furnished by the school in the list of candidates is mentioned in the certificate issued by the CBSE Board. Further it has been categorically stated that in the examination Byelaw clause 69.2(4) is very clear that any change of date of birth of the candidate can be made within one year from the date of declaration of result and no correction whatsoever, shall be made on application submitted after the said period of one year. In the instant case, the certificate was issued on 25.8.2010, while the request for the correction of date of birth was made to CBSE Board on 25.6.2015 only after a period of 5 years. Thus, sought for dismissal of this 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 24.6.2010, 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. 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.

9. Accordingly, 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 K.Aswin Lakshmi Narayanan 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.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Copy to

Regional Officer,
Central Board of Secondary Educational
(Regional Office)
New Number 3 (Old No.1630-A),
"J"Block, 16th Main Road,
Chennai 600 040.

+lcc to Mr.G.Nagarajan, Advocate, S.R.No.8951
+lcc to Mr.Nazirudeen, Advocate, S.R.No.9077

सत्यमेव जयते

W.P.No.32454 of 2015
& M.P.No.1 of 2015

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