

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.3522 of 2013

M.Pandian

.. Petitioner

Versus

1. The Government of Tamilnadu
Rep. By its Secretary,
Education Department,
Fort St.George, Chennai-600 009.
2. The Director of Higher Education,
Directorate of Public Institutions,
College Road, Chennai-600 006.
3. The District Educational Officer,
Directorate of Public Institutions,
College Road, Chennai-600 006.
4. The Registrar,
Anna University,
Gandhi Mandapam Road,
Chennai-600 025.
5. The Principal,
Rajalakshmi Engineering College,
Thandalam, Sriperumbudur Taluk,
Kancheepuram District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to O.Mu.No.75246/M/E3/2012 dated 3.11.2012 on the file of the second respondent and quash the same and direct the respondents to effect amendment of the date of the petitioner birth as 14.2.1988 instead of 14.2.1987 in the Transfer Certificate, Matriculation Examination Certificate, Higher Secondary Examination Certificate, B.E., Degree Certificate and Transfer Certificate respectively by the Respondents 2 to 5.

For Petitioner : Mr.J.R.K.Bhavanantham
For RR1 to 3 : Mr.R.Govindasamy
Special Government Pleader

For R4 : Mr. L.P.Shanmugasundaram
Special Government Pleader

O R D E R

Heard Mr.J.R.K.Bhavanantham, learned counsel appearing on behalf of the petitioner and Mr.R.Govindasamy, learned Special Government Pleader appearing on behalf of respondents 1 to 3 and Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing on behalf of the fourth respondent.

2. The petitioner is a final year student of Post Graduate Engineering Course in M.E.(CADD) in Anna University. According to the petitioner, he was born on 14.02.1988 in Southern Railway Headquarters Hospital, Perambur, Chennai to his parents namely Tvl.Munuswamy and Kalavathy. The petitioner's parents have only three sons namely Kalaimani, who was born on 31.07.1984, second son by name Nareshkumar was born on 01.12.1986 and the petitioner, who is the third son was born on 14.02.1988. At the time of petitioner's birth, the Assistant Medical Officer, Southern Railway Hospital, Perambur, Chennai had issued a birth report dated 15.02.1998 certifying that Tmt.Kalavathy, Wife of Tr.Munuswamy had given birth to a male child on 14.02.1988. Consequently, his birth was registered by the Corporation of Madras on 15.02.1988 wherein, the petitioner's date of birth was recorded as 14.02.1988. However, the petitioner's date of birth was wrongly entered in his academic records as 14.02.1987 instead of 14.02.1988 due to inadvertence of his father. This mistake continued till the petitioner's present academic course. On 12.09.2012, the petitioner as well as his father sent a representation to the respondents 2 to 5 calling upon them to correct his date of birth as 14.02.1988 instead of 14.02.1987 in the Matriculation Examination Certificate, Higher Secondary Examination Certificate, Transfer Certificate issued in B.E.Course and B.E.Decree Certificate. On receipt of the representation, the second respondent had passed the impugned order dated 03.11.2012 declining to effect the amendment of the petitioner's Date of Birth. Aggrieved against the same, the petitioner has filed this present Writ Petition.

3. Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents 1 to 3 would submit that as per the Subsidiary Rule 5 of the SSLC Scheme, applications for alterations in the Date of Birth will not be entertained after the pupil has completed the school course and appeared for the SSLC Examination. The learned Special Government Pleader relying upon the G.O.Ms.No.719 dated 20.04.1976 submitted that there is a bar for carrying out alterations in the academic records.

4. It is not in dispute that the petitioner continues to be a student undergoing M.E.(CADD) in Anna University at the time of filing the writ petition. The only ground raised by the respondents is that the Subsidiary Rule 5 of the SSLC

Scheme prohibits any alteration after the petitioner has ceased to be a student. The G.O.Ms.No.719 dated 20.04.1976, which was relied upon by the respondents refers to an earlier G.O.Ms.No.39, Education dated 12.01.1944 which prescribed the procedure to be conducted for alteration of Date of Birth in SSLC Book.

5. As per the G.O.Ms.No.719, whenever a request for alteration of Date of Birth in the SSLC Book is made by the person, who continues to be a student of the Secondary School and who makes a request for alteration of his Date of Birth, the Director of School Education, shall examine the evidence placed before him and pass orders after considering the evidence let in by the applicant.

6. In the present case, the petitioner continues to be a student when his request for alteration of date of birth was made. As such, the Director of School Education is empowered to carry out the alterations by following the procedure laid down in the above said G.O.Ms.No.719 dated 20.04.1976.

7. The learned Special Government Pleader also relied upon the judgment of this Court reported in P.Chinnathai Selva Rani vs. State of Tamil Nadu, 2007(5) CTC 67 and submitted that the alteration of Date of Birth is not possible after the student leaves the school and appears for the examination. Curiously the judgment relied upon by the learned Special Government Pleader is a Second Appeal arising from a given set of facts. The findings in the Second Appeal relates to determination of a substantial question of law on certain given set of facts. Nevertheless, Paragraph 11 of the same judgment deals with the facts of the case in the Second Appeal and the same is extracted below:

"11. As pointed out above, the plaintiff was born, as per the entry in the SSLC Book, on 09.02.1954 and she had joined the school and completed her SSLC long back and even according to the plaintiff she came to know that her real and correct date of birth is 09.02.1956 only in the year 2001, through her mother and thereafter only has applied for Ex.A-3 and applied for change of date of birth to the defendants. Thus, there is a huge unexplained delay in approaching the authorities concerned. As laid down by the Apex Court in the above

said decision, the plaintiff has approached the Court belatedly and it has to be pointed out that no injustice will be caused to the plaintiff if the declaration sought for by the plaintiff is not granted. But for the entry of date of birth of the plaintiff as

09.02.1954, she would not have been admitted to the school and would not have completed the SSLC course and even assuming that wrong date of birth has been given it cannot be said that it had caused any loss to the plaintiff and if at this stage the Date of Birth is changed then the plaintiff will become entitled to a double benefit namely by taking advantage of the declaratory decree the plaintiff will approach her employer to change the Date of Birth from 09.02.1954 to 09.02.1956 even on equity the plaintiff is not entitled for declaration. Hence, I see absolutely no reason to interfere with the reasonings of the Courts below. The decision reported in State of Orissa V. Jagadish, 1998 Lab.I.C.660 (referred to supra) has to be considered in the light of the Subsidiary Rule 5 of the SSLC Scheme and not in isolation and therefore the ratio of the decision is not applicable to the facts of this case. Similarly the ratio laid down in Ishar Singh V.National Fertilizers, AIR 1991 SC 1546 (referred to supra) is not applicable to the facts of this case, as the facts of that case are totally different."

8. As such, this Court from the above judgment had come to the conclusion that alterations of Date of Birth can be effected before the student leaves the school as per subsidiary Rule 5 of the SSLC Scheme and not thereafter, since in that particular case, the appellant had made an application after 47 years from date of his birth seeking alterations and that too when he was in employment. But, the present case relates to a student, who is yet to enter into employment.

9. This petitioner's date of birth was correctly entered into by the Assistant Medical Officer, Southern Railway Headquarters Hospital, Perambur, Chennai as 14.02.1988, based on which the Corporation of Madras had also registered his birth as 14.02.1988. The petitioner has no younger brother or sister. The petitioner had also stated that he had noticed the mistake in the Date of Birth only after the SSLC certificate was issued, which aspect was not considered by the respondents. As evidenced in the G.O., the petitioner so long as he continues to be a student is entitled to have his Date of Birth altered.

10. I have also taken into consideration the fact that the petitioner is a young man pursuing a professional career has a very bright future. Already much damage has been done in his academic records due to the inadvertence of his parents. The mistake of the parents should not be put against the petitioner to make him suffer further in his career, where

more records for registering his date of birth may occur. In such circumstances, the impugned order passed by the second respondent dated 03.11.2012 is liable to be set aside and accordingly quashed.

11. The respondents are directed to effect the amendment of petitioner's date of birth as 14.02.1988 instead of 14.02.1987 in his Matriculation Examination Certificate, Higher Secondary Examination Certificate, B.E. Degree Certificate, Transfer Certificate issued after completion of B.E. Degree Course and any other academic records that the petitioner may possess, within a period of eight weeks from the date of receipt of copy of this order.

12. With the above observation, the Writ Petition is allowed. No Costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Secretary,
The Government of Tamilnadu,
Education Department,
Fort St.George, Chennai-600 009.
2. The Director of Higher Education,
Directorate of Public Institutions,
College Road, Chennai-600 006.
3. The District Educational Officer,
Directorate of Public Institutions,
College Road, Chennai-600 006.
4. The Registrar,
Anna University,
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5. The Principal,
Rajalakshmi Engineering College,
Thandalam, Sriperumbudur Taluk,
Kancheepuram District.

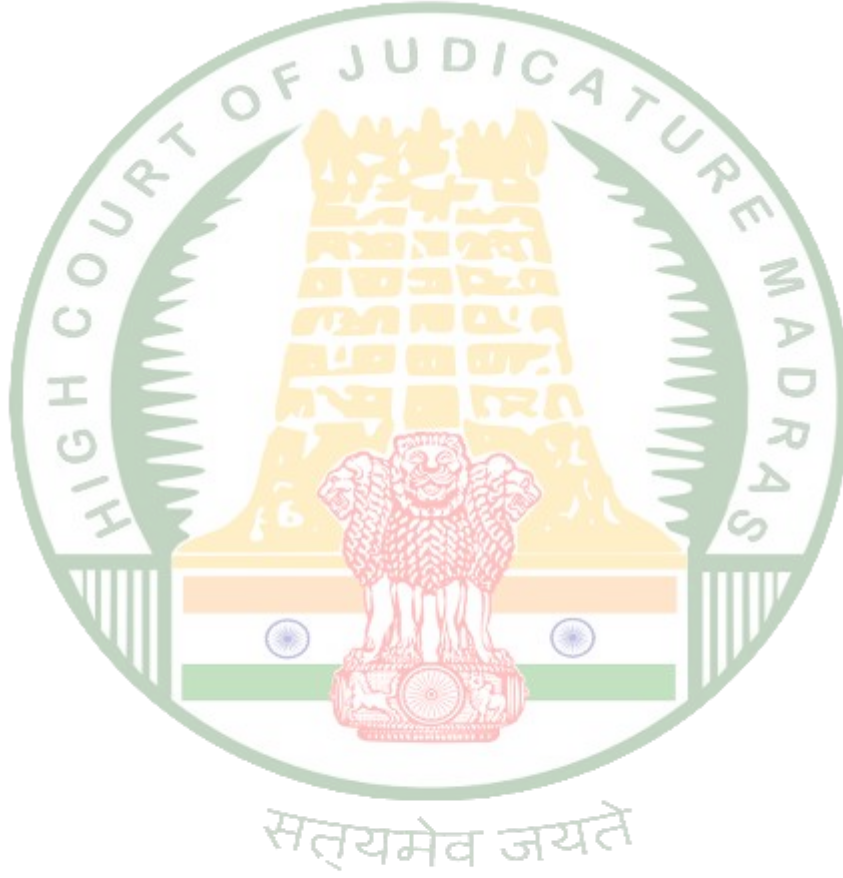
+1cc to Mr.J.R.K.Bhavanantham, Advocate sr.61652

+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.61857

+1cc to Government Pleader sr.62125

W.P.No.3522 of 2013

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