

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.36481 of 2016
and
W.M.P.No.31394 of 2016

P.Tamil Selvan

... Petitioner

Vs.

1.The Chief Secretary to Government,
Public Department,
Fort Saint George,
Chennai-600 009.

2.The Secretary to Government,
Personnel & Administrative Reforms Department,
Fort Saint George,
Chennai-600 009.

3.The Chief Information Commissioner,
Tamil Nadu State Information Commission,
2, Thyagaraya Road,
Teynampet,
Chennai-600 018.

4.The Director of School Education,
College Road,
Nungambakkam,
Chennai-600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to take into consideration the altered date of birth ordered by the Director of School Education, Chennai-600 006, in his proceedings Na.Ka.No.4122/M/C3/2012, dated 20.04.2016 in pursuance of the orders issued in W.P.No.25678 of 2014 dated 08.03.2016 and order extension of the O/o. the tenure of the State Information Commissioner of the petition within a reasonable time.

For Petitioner : Mr.M.Muthappan
For respondents : Mr.R.Venkatesh, GA(For R1, R2 & R4)
Mr.Niranjan Rajagapalan
for M/s.G.R.Associates (For R3)

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the respondents to take into consideration the altered date of birth ordered by the Director of School Education, Chennai-600 006, in his proceedings Na.Ka.No.4122/M/C3/2012, dated 20.04.2016 in pursuance of the orders issued in W.P.No.25678 of 2014 dated 08.03.2016 and order extension of the Office of the tenure of the State Information Commissioner of the petitioner, within a reasonable time.

2.In the affidavit filed in support of the writ petition it has been averred by the petitioner as follows:-

2-1.The petitioner was earlier practicing Law. Now, he is serving as State Information Commissioner. He was born on 17.11.1952 at Tiruthalaiyur Village, Musiri Taluk, Trichy District. The date of birth of the petitioner was duly registered in the Register of Birth and Deaths in the Sub-Registrar Office, Musiri, on 20.11.1952. The parents of the petitioners are not educated. While admitting the petitioner in School, the parents of the petitioner have inadvertently mentioned the date of birth as 25.12.1951. The petitioner's parents are not aware of the implications of the inadvertent entries made in the school register at the time of admitting him in the school. The petitioner was not aware of the wrong entry made in the school register with regard to his date of birth, which he came to know very recently. The petitioner thereafter applied for birth certificate from the Musiri Sub-Registrar Office and he found that he was born on 17.11.1952 and the wrong entry was made at the time of admitting him in the school, which has been subsequently carried out in the school certificates and other documents as 25.12.1951.

2-2.The petitioner completed the schooling in Adi Dravida Welfare High School during 1971-72. Thereafter, he completed Bachelor Degree and law course in Madras University. He entrolled his name as a member of Bar Council of Tamil Nadu on 02.03.1983 and he had been practicing as an Advocate. Subsequently, the petitioner was appointed as State Information Commissioner and he has been serving in the said post meritoriously from 05.09.2012 based on the orders issued by the 2nd respondent.

2-3.It is further stated by the petitioner that his date of birth was wrongly mentioned purely on account of the inadvertence of the petitioner's parents. The petitioner made a

representation to the District Educational Officer, Trichy and also to the District Adi-Dravida Welfare Officer, Trichy on 11.09.2012 and the representation was referred to the Chief Educational Officer, Trichy, who in turn referred the matter to the Revenue Divisional Officer, Musiri, Trichy District to conduct an enquiry and submit a report. Even after a report was prepared by the Revenue Divisional Officer, Musiri, Trichy District, mentioning the circumstances, in which the wrong date of birth was mentioned in the School Register, the Director of School Education, Chennai in his proceedings dated 21.03.2014 rejected the claim of the petitioner for alteration of date of birth. Aggrieved over the same, the petitioner had earlier filed a writ petition in W.P.No.25678 of 2014 and this Court by order dated 08.03.2016 directed the 1st respondent to consider the case of the petitioner afresh and issue necessary orders by taking into consideration the relevant records. Pursuant to the said order passed by this court, the Director of School Education, (3rd respondent herein) vide his proceedings dated 20.04.2016 allowed the alteration of date of birth of the petitioner as 17.11.1952. Following the alteration of date of birth issued by the Director of School Education, necessary corrections have been made in the School Leaving Certificate as well as other related records.

2-4. Thereafter, the petitioner made a representation to the Governor of Tamil Nadu, requesting for necessary correction in the date of birth and to extend the tenure of the petitioner as State Information Commissioner. The petitioner's representation was recommended by the 3rd respondent, who forwarded the recommendation to the 2nd respondent and the matter is pending with the 2nd respondent as on date. As per the wrong date of birth, the petitioner is due for superannuation on 24.12.2016; whereas, as per the altered date of birth ie., original date of birth, the petitioner is entitled to continue his office till 04.09.2017. Since no further action has been taken on the representation of the petitioner, the petitioner has come forward with the present writ petition.

3. When the matter is taken up for consideration, the learned counsel for the petitioner submitted that the petitioner's representation dated 20.09.2016 has been forwarded by the 3rd respondent to the 2nd respondent and it is for the 2nd respondent to pass orders with regard to the case of the petitioner for continuation of his office as State Information Commissioner. Thus, the learned counsel for the petitioner sought for a suitable direction to the respondents.

4. I have heard the submissions made by Mr.R.Venkatesh, Government Advocate as well as Mr.Niranjana Rajagopalan, appearing for the respondents and perused the materials

available on record.

5. Considering the facts and circumstances of the case and taking note of the fact that the petitioner's representation has been forwarded by the 3rd respondent to the 2nd respondent, this Court directs the 2nd respondent to pass appropriate orders with regard to the alteration of the date of birth of the petitioner and for extension of his tenure as State Information Commissioner, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssv

To

- 1.The Chief Secretary to Government,
Public Department,
Fort Saint George,
Chennai-600 009.
- 2.The Secretary to Government,
Personnel & Administrative Reforms Department,
Fort Saint George,
Chennai-600 009.
- 3.The Chief Information Commissioner,
Tamil Nadu State Information Commission,
2, Thyagaraya Road,
Teynampet,
Chennai-600 018.

4.The Director of School Education,
College Road,
Nungambakkam,
Chennai-600 006.

+1cc to Mr.G.R. Associates, Advocate, S.R.No.53041
+2cc to Mr.M. Muthappan, Advocate, S.R.No.63023 and 62686
+1cc to the Government Pleader, S.R.No.62821

nmi (CO)
md(8/11/2016)

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