

HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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CWP-15230 of 2016

Decided on : 19.12.2016

Angat Singh Chohan

... Petitioner

Versus

CBSE and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.Suvir Sehgal, Advocate
for the petitioner.

Mr.Aseem Aggarwal, Advocate
for respondent No.3.

G.S.Sandhawalia, J. (Oral)

Petitioner seeks the correction of the date of birth as per the birth certificate dated 13.11.1997 (Annexure P/1) wherein, his date of birth has been depicted as 10.11.1997. It is pertinent to mention that the said certificate was registered on 12.11.1997 in which there is an entry that Pritpal Singh and Monica had registered the birth of a male child. The registration date is of utmost important in the present case since the same was within two days of the date of birth. It has been held time and again by the Apex Court that evidentiary value of the certificate issued by the Registrar (Birth and Death) is of much evidentiary value and the said certificate cannot be brushed aside lightly. Reliance can be placed upon the observation made in Narinder Kaur Vs. Punjab and Haryana High Court and others, 2011 (2) SCR 534. The relevant part reads as under:-

“7. The main reason assigned by the High Court for dismissing the writ petition filed by the appellant is that the appellant had failed to show satisfactorily that she had not taken any advantage of the recorded date of birth. It was further held by the High Court that the appellant belonged to a mature class and her age as declared in the application Form for selection must have influenced the mind of the Selection Committee and, therefore, the principle of estoppel would apply to the facts of the case. The High Court also held that notification dated 13.8.2001 is discretionary in nature and the appellant is not entitled to change in her birth date on the basis of the said notification.

8. It may be mentioned that the State of Punjab and Punjab and Haryana High Court had filed reply affidavit before the High Court. However, no material was produced on the record of the case to show that the appellant had taken undue advantage of the recorded date of birth. The proceedings relating to the selection of the appellant as Civil Judge never formed part of the instant case and, therefore, it was preposterous on the part of the High Court to assume that the learned High Court Judges who were members of the Selection Committee while selecting the appellant as Civil Judge (J.D.) must have been influenced by the age of the appellant as declared by her in the application form for selection. The record does not indicate that after receipt of the application from the appellant regarding change of her birth date, any inquiry, much less a special inquiry as contemplated by amended Rules of 2001 was undertaken by the High Court. It is true that the amended Rules of 2001 are discretionary in nature but that fact by itself does not justify the High Court on its administrative side to ignore them altogether and then to come to the conclusion that on the basis of the discretionary rules, the appellant is not entitled to claim change in her date of birth.

9. In the present appeal, Dr. J.P. Singh, Director, Health & Family Welfare- cum-Chief Registrar, Births & Deaths, Punjab has filed an affidavit on 26.8.2010 mentioning that as per the record maintained by the office of Local Registrar, Births & Deaths, Municipal Council, Rajpura, Tehsil Rajpura, Distt. Patiala, Punjab, the entry of the birth of the appellant is recorded with particulars as Annual Sr. No. 10, Date of Registration 11.1.1972, Date of Birth 9.1.1972. Thus, the State of Punjab has now admitted in this affidavit that the correct date of birth of the appellant as per births and deaths record was 9.1.1972. The contents of the affidavit filed by Dr. J. P. Singh, Director, Health & Family Welfare-

cum-Chief Registrar, Births & Deaths, Punjab are not disputed or controverted in any manner by the Punjab and Haryana High Court.

10. In view of the presumptive value which attaches to the birth and death records, this Court is of the opinion that appeal deserves to be allowed.

11. For the foregoing reasons, the appeal succeeds. The judgment dated 20.4.2006 rendered by Division Bench of the High Court of Punjab and Haryana at Chandigarh in CWP No. 16151 of 2003, is hereby set aside. CWP No. 16151 of 2003 filed by the appellant in the High Court is allowed. The order dated 12.5.2002 passed by Punjab and Haryana High court on its Administrative side rejecting the application dated 12.4.2002 made by the appellant to the High Court with a request to change her date of birth from 26.1.1971 to 9.1.1972 is also set aside. The application dated 12.4.2002 made by the appellant to the High Court to change her date of birth from 26.1.1971 to 9.1.1972 stands allowed. Both the respondents are hereby directed to carry out necessary changes in service record of the appellant by mentioning her date of birth to be 9.1.1972. The appeal accordingly stands disposed of.
Appeal disposed of.”

The rejection on behalf of the respondent-board in the present case is on the technical ground that the representation for correction has not been initiated within one year of the declaration of the result. The same is based on the amended bye-laws of the respondent board which came into force with effect from 31.03.2015. Rule 69.2 (iv) as amended, provides that the entertainment of the application is only within one year from the date of declaration of result. The same is reads as under:-

“69.2.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.

(iv) The application for correction in date of birth duly forwarded by the Head of school alongwith documents mentioned in bye-laws 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.”

In the present case, it is to be noticed that the certificate was issued by the respondent board on 20.05.2014 (Annexure P/8) wherein the date of birth of the petitioner has been depicted as 10.12.1997 instead of 10.11.1997. The certificate bears the same parentage as in the certificate issued by the Registrar (Birth and Death). As per the regulations, the petitioner had applied through the school and the school forwarded the application on 10.09.2015 (Annexure P/9) which was the cause of rejection being beyond the period of one year from the declaration of result. It is not disputed that the petitioner's mother thereafter, also filed two applications dated 28.01.2016 (Annexure P/11) and 16.03.2016 (Annexure P/12) asking for the action to be taken as per the request which had been forwarded by the school.

Counsel for the petitioner has also placed on record the certificate dated 06.02.2006 (Annexures P/5) and dated 25.06.2015 (Annexure P/6) to show that the school had also in its record shown the date of birth as per the correction sought. The certificate dated 06.02.2006 (Annexure P/5) is well before the school made the request

also in the year 2015. The School, however, has not come forward to support the case of the petitioner.

The rule, in question, on the basis of respondent-board had relied upon, pertains to the declaration of the result and the cut off fixed. In the present case, it is to be noticed that the petitioner, himself, was associated with the respondent-board and continued studying in the same school and completed his 10+2 subsequently, two years later. His result, therefore, for +2 was declared only in 2016 which would be clear from the communication of the mother dated 28.1.2016 (Annexure P/11). The petitioner therefore, passed out only in the year 2016 and the result of the board would have been declared in the year 2016. The purpose of the rule though salutary in nature is to the effect that it is to avoid belated claims which are raised by various persons seeking correction in the date of birth which might be after decades. In the present case, the application has been moved expeditiously even when the child was studying in the school and had yet to give his +2 examination.

In such circumstances, reliance upon the technicality without taking into account that the application had been filed just after period of one year, is without any justification. Accordingly, the writ petition is allowed and the said order dated 14.06.2016 (Annexure P/14) is quashed. Respondent-board shall process the application treating the declaration of result in the year 2016 and decide the

application for change of the date of birth on merits within a period of two months from the date of receipt of the certified copy of the order.

It is always open to the respondent-board to call any additional documents to verify the date of birth in view of the above facts. If any adverse order is to be passed, the same shall contain reasons and be conveyed to the petitioner.

[G.S. SANDHAWALIA]
JUDGE

19.12.2016

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No