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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1063/2016 & CM No.4601/2016

VYANJANA

..... Petitioner

Through: Mr.C.S. Parashar with Mr.Mohit
Kumar and Mr.S.K. Bansal, Advs.

Versus

THE CHAIRMAN, C.B.S.E. & ANR

..... Respondents

Through: Mr.Atul Kumar, Adv. for CBSE.

+ W.P.(C) 1770/2016

AISHWARYA DIXIT

..... Petitioner

Through: Mr.Sanjay Agnihotri with Mr.Z.A.
Siddiqui, Advs.

Versus

CENTRAL BOARD OF SECONDARY
EDUCATION

..... Respondent

Through: Mr.Atul Kumar, Adv. for CBSE.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

07.12.2016

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1. These two writ petitions have been filed aggrieved by the action of the Central Board of School Education (CBSE) in rejecting the request of the petitioners for correction/change in the name and date of birth entered in the school records on the ground that the applications for correction were made beyond one year from the date of declaration of the result.

2. The petitioner in W.P.(C) No.1063/2016 studied from Nursery to 10th Standard in Delhi Public School, Vidyut Nagar, Dhaulana-Dadri Road, Ghaziabad Distt. She passed the Secondary School Examination, 2000 conducted by the CBSE in June, 2000 and a certificate to that effect was issued by CBSE on 03.06.2000 in which her father's name was recorded as 'Kumar Pal Singh'. The petitioner made an application on 26.05.2015 stating that her father's name is 'Kunwar Pal Singh' and since the same was wrongly recorded in the certificate dated 03.06.2000, the same be corrected. The said request was rejected by CBSE by order dated 09.11.2015 on the ground that the petitioner failed to make the application for correction within one year of the date of declaration of the result as provided under Rule 69.1(ii) of the Examination Rules of CBSE. Aggrieved by the same, W.P.(C) No.1063/2016 has been filed with a prayer to set aside the order dated 09.11.2015 and further to declare the Notification dated 25.06.2015 under which Rule 69.1(ii) of CBSE Examination Rules were amended reducing the period for making an application for correction of name of the candidate/father/mother/guardian entered in the Board's record from ten years to one year of the date of declaration of the result.

3. So far as W.P.(C) No.1770/2016 is concerned, the petitioner had passed the Senior Secondary Examination conducted by CBSE in the year 2011 and in the certificate as well as the mark-sheet, her date of birth was recorded as 09.09.1996. She made an application on 16.06.2014 for correcting the date of birth as 09.09.1995 on the basis of the documents annexed thereto. The said request was rejected by CBSE by letter dated 03.09.2015 in view of Rule 69.2(iv) of the Examination Rules, according to

which, such application for correction in date of birth has to be made within one year of the date of declaration of result. The said letter of CBSE dated 03.09.2015 is sought to be challenged in W.P.(C) No.1770/2016. The petitioner also seeks a declaration that Rule 69.2(iv) of the Examination Rules is the ultra vires the fundamental rights of the petitioner.

4. CBSE filed counter affidavits in both the writ petitions opposing the reliefs sought by the petitioners.

5. We have heard the learned counsel for both the parties.

6. As could be seen from the counter affidavits and the documents enclosed, the Examination Rules of CBSE were amended by Notification dated 25.06.2015. Rule 69.1(ii) and Rule 69.2 as amended may be reproduced hereunder for ready reference:

"69.1(ii) Correction in name to the extent of correction in spelling errors, factual typographical errors in the Candidate's name / Surname, Father's name / Mother's name or Guardian's name to make it consistent with what is given in the school record or list of candidates (LOC) submitted by the school may be made.

Application for correction in name of Candidate / Father's / Mother's / Guardian's name will be considered only within one year of the date of declaration of result provided the application of the candidate is forwarded by the Head of Institution with the following attested documents:

XXX XXX
XXX XXX

69.2 (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.

(iii) Request for correction in Date of Birth shall be forwarded by the Head of the School alongwith attested Photostat copies of:

XXX XXX
XXX XXX

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

(emphasis supplied)

7. It is clear from the above Rules that any application for correction either of the name or the date of birth recorded in the school record will be considered only if such application is made within one year of the date of declaration of the result. Prior to the amendment of the Rules vide Notification dated 25.06.2015 on the basis of the recommendations of the Examination Committee of CBSE dated 31.03.2015, such application for correction of name was required to be made within ten years from the date of declaration of the result and for correction of date of birth within five years of the date of declaration of the result.

8. The Central Board of Secondary Education (CBSE) is a society registered under the Societies Registration Act, 1860 with the object of achieving academic excellence in school education. It functions according to the objectives set in the National Curriculum Framework and in consonance with various policies, statutes and enactments made by the Government of India from time to time. The power and competence of CBSE to make the Rules/Bye-laws for facilitating the working and functioning of the Board is not in dispute. Hence, the only issue that needs consideration by us is as to whether the time limit of one year prescribed under the impugned Rules for considering the request of the candidates for correction of the names/date of birth entered in the school records can be held to be arbitrary or illegal and whether the contentions of the petitioner that the time limit so prescribed is violative of the fundamental rights guaranteed under the Constitution of India is tenable.

9. An identical issue fell for consideration by the Supreme Court in ***Board of Secondary Education of Assam vs. Md. Sarifuz Zaman and Ors.*** **2003 Supp (6) SCR 1273**. In the said case, the validity of the time limit of three years prescribed in Regulation 8 of the Regulations made by Board of Secondary Education of Assam for correction of date of birth, name, title, etc. was under challenge. After holding that the Board in exercise of powers conferred by Section 24(1) of Assam Secondary Education Act, 1961 is competent to make the Regulations for the purpose of carrying out the provisions of the said Act, the other contentions raised by the respondents therein were negated and the time limit prescribed for making the request for correction in the school records was upheld by the Supreme Court

observing:

“The name, father's name, date of birth the institution in which the student has studied and such other particulars as are incorporated in the certificate are based on the information made available by the contents of the application form which is scrutinized, verified and forwarded by the institution, in which the student has studied. All these particulars carry with them a prima facie guarantee of correctness inasmuch as such particulars in the record of the institution are furnished by the applicant himself and the applicant himself fills in and subscribes to the application seeking entry in the examination conducted by the Board. It is difficult to assume that such particulars would be false or incorrect so far as the applicant is concerned. At the same time, this procedure becomes a part of the process of 'conducting examinations and publishing the results' as also the 'conditions under which the candidates shall be admitted to the examinations of the Board' the two subjects covered by clauses (d) and (g) of sub-Section (2) of Section 24 of the Act, apart from the generality of the power conferred by sub-Section (1) of Section 24. It cannot, therefore, be contended that the matter relating to certificates and as to correction of any entry made therein does not fall within the purview of the power to make Regulations conferred on the Board.

Nobody can claim a right to have corrected an entry in a certificate solemnly issued by an educational institution that too the one enjoying the status of a statutory Board under the Act. The right of the applicant to have an error or mistake corrected is accompanied by a duty or obligation on the part of the Board to correct its records and the certificate issued by it. Not only it is a corresponding duty or obligation, it has also to be perceived as a power exercisable by the Board to correct as entry appearing in the certificate issued by it. People, institutions and government departments etc.-all attach a very high degree of reliability, near finality, to the entries made in the certificates issued by the Board. The frequent exercise of power to correct entries in certificates and that too without any limitation on

exercise of such power would render the power itself arbitrary and may result in eroding the credibility of certificates issued by the Board. We, therefore, find it difficult to uphold the contention that the applicants seeking correction of entries in such certificates have any such right or vested right.

Lastly, the submission cannot also be countenanced that the regulatory measure engrafted into the Regulations on the subject of correction of errors in the certificates is 'absolute' in nature. The Regulation permits correction but subject only to reasonable restrictions.

Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit of discretionary power being denied on principles of equity. Losses of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone. There ought to be a limit of time by which human affairs stand settled and uncertainty is lost. Regulation 8 confers a right on the applicant and a power coupled with an obligation on the Board to make correction in the date of birth subject to the ground of wrong calculation or clerical error being made out. A reasonable procedure has been prescribed for processing the application through Inspector of Schools who would verify the school records and submit report to the Board so as to exclude from consideration the claims other than those permissible within the framework of Regulation 8. Power to pass order for correction is vested on a higher functionary like Secretary of the Board. An inaccuracy creeping in at the stage of writing the certificates only, though all other prior documents are correct in all respect, is capable of being corrected within a period of three years from the date of issuance of certificate. Three years period provided by the Regulation is a very reasonable period. On the very date of issuance of the certificate the concerned student is put to notice as to the entries made in the certificate. Everyone remembers his age and date of birth. The student would realize within no time that the date of birth as entered in the certificate is not correct if that be so once the certificate is placed in his hands.

Based on the certificate the applicant would seek admission elsewhere in an educational institution or might seek a job or career where he will have to mention his age and date of birth. Even if he failed to notice the error on the date of issuance of the certificate, he would come to know the same shortly thereafter. Thus, the period of three years, as prescribed by Regulation 3, is quite reasonable. It is not something like prescribing a period of limitation for filing a suit. The prescription of three years is laying down of a dividing line before which the power of the Board to make correction ought to be invoked and beyond which it may not be invoked. Belated applications, if allowed to be received, may open a Pandora's box. Records may not be available and evidence may have been lost. Such evidence-even convenient evidence-may be brought into existence as may defy scrutiny. The prescription of three years bar takes care of all such situations. The provision is neither illegal nor beyond the purview of Section 24 of the Act and also cannot be called arbitrary or unreasonable. The applicants seeking rectification within a period of three years form a class by themselves and such prescription has a reasonable nexus with the purpose sought to be achieved. No fault can be found therewith on the anvil of Article 14 of the Constitution.”

10. In the light of the law laid down by the Supreme Court in the above decision, the petitioners can neither claim a vested right to have the entries in the school records corrected nor the time limit of one year prescribed by the CBSE based on a policy decision can be held to be unreasonable or illegal. In fact, the prescription of the said time limit of one year has a reasonable nexus with the purpose sought to be achieved. All the contentions raised by the petitioners are therefore liable to be rejected.

11. Hence, the writ petitions are devoid of merit and accordingly the same are dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

DECEMBER 07, 2016

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