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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5894/2013

MOHAMMAD REHAN ALAM

..... Petitioner

Through: Mr. Anup Kumar, Adv.

versus

CENTRAL BOARD OF SECONDARY EDUCATION & OTHERS

..... Respondent

Through: Mr. Ashok Kumar, Adv. for R-
1/CBSE

Mr. Mohinder J.S. Rupal, Adv. with
Ms. Simran Jeet, Adv. for University
of Delhi

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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30.11.2016

1. The writ petition has been filed by the petitioner challenging the letter dated May 04, 2006 addressed by the respondents 1 and 2 to the Principal, International Indian School, Jeddah where the petitioner was studying at the relevant time, rejecting the request of the petitioner forwarded by the School for correction of date of birth from March 10, 1987 to March 10, 1989.
2. Some of the relevant facts are, it is the case of the petitioner that he was born on March 10, 1989 in Bihar. The petitioner's father was working in Jeddah, Saudi Arabia. Through his father, he applied for a passport. The

Passport Authorities had by mistake printed the date of birth of the petitioner as March 10, 1987 in place of March 10, 1989. He studied up to class VI in Bharat Modern Academy School, Supaul. In the School Leaving Certificate issued by the above said school, the date of birth of the petitioner was mentioned as March 10, 1989. The petitioner went to Jeddah with his father and took admission in the 7th class in a School in Jeddah.

3. It is the case of the petitioner that the petitioner's school leaving certificate was produced before the said school in Jeddah. However, the school authorities recorded the date of birth of the petitioner in the admission register as March 10, 1987 based on the date of birth mentioned in the passport of the petitioner. The petitioner took admission in the 9th class in the International Indian School, Jeddah affiliated to the respondents 1 and 2. On February 7, 2006, the petitioner through his father applied for the correction of his date of birth mentioned in the passport before the Passport Authorities. The Passport Authority after duly verifying the documents rectified the petitioner's date of birth as March 10, 1989 in place of March 10, 1987.

4. It is the case of the petitioner, the petitioner's father wrote to the school on February 15, 2006 stating therein that the Passport Office, Patna

by mistake had mentioned the wrong date of birth and the same was registered in the school in Jeddah. However, based on the documentary proof, the Consulate General of India has corrected the petitioner's date of birth as March 10, 1989. He requested the school to correct the date of birth of the petitioner from March 10, 1989 in place of March 10, 1987. The Principal of the International Indian School, Jeddah on April 4, 2006 wrote a letter to the respondents 1 and 2. The CBSE on May 04, 2006 vide the impugned letter wrote to the Principal stating that the correction of the date of birth of the petitioner has not been allowed by the Board. The petitioner passed the matriculation examination from CBSE on May 27, 2006. His date of birth shown in the matriculation certificate is March 10, 1987. Similarly, he passed the All India Senior School Certificate Examination from the CBSE Board in the year 2008. The petitioner came back to India and took admission in Bachelor of Commerce in Zakir Hussain College, University of Delhi. In the year 2011 he passed the graduation examination with first division and awarded Bachelor of Commerce degree.

5. The case of the petitioner as contended by Mr. Anup Kumar, Advocate is that the birth certificate of the petitioner shows his date of birth as March 10, 1989. According to him, that being the ultimate proof with

regard to the date of birth, the same need to have been corrected. He states, that the petitioner would lose two precious years of his life, as he would get opportunities to appear in the Civil Services Examination/Central Armed Forces Examination conducted by the UPSC. According to him, it is a bona fide case and no undue advantage has been taken by him with his date of birth as March 10, 1987. He would rely upon the judgment of the Supreme Court in the case reported as *(2011) 11 SCC 553 Narinder Kaur vs. Punjab and Haryana High Court and others* to contend that the value need to be attached to the date of birth certificate issued by the local authorities.

6. On the other hand, Mr. Ashok Kumar, learned counsel appearing for the respondents 1 and 2 would submit that the present case is hit by delay and laches, inasmuch as the impugned communication is dated May 04, 2006. The present petition has been filed almost after seven years. That apart, he would state, that the petitioner cannot rely upon the date of birth certificate, which was issued by the local authority in Bihar, wherein his date of birth is shown as March 10, 1989 for the reason that the same was issued much after his birth, i.e. on December 31, 2003. That apart, he would state that all throughout, his date of birth was being represented as March 10, 1987. According to him, annexure P-3 (page 23), which is a copy of the

passport issued on June 23, 1999 his date of birth was shown as March 10, 1987. That apart, the School records at Jeddah (annexure P-5, page 26) also show the petitioner's date of birth as March 10, 1987. He states, the date of birth of March 10, 1987 was depicted in the records of the CBSE on the basis of the records maintained by the school on the information given by the parents of the petitioner. In fact, he has placed on record, true copy of the form filled by the father of the petitioner when the petitioner was studying in International Indian School, Jeddah. The change of date of birth in the passport to March 10, 1989 would not help the case of the petitioner in view of the byelaws. He states, that this is a case of change of date of birth and as per byelaw 69.2, which inter-alia stipulates that 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. According to him, it is a case where the petitioner has slept over his rights and the present petition needs to be dismissed.

7. Having heard the learned counsel for the parties, there is no dispute to

the fact when the petitioner got himself admitted in the school in Jeddah on November 11, 2003, his date of birth was shown as March 10, 1987. In fact, much before his admission in the school in Jeddah, his passport also showed the date of birth as March 10, 1987. The said passport was issued on June 23, 1999, much before the date of birth certificate issued to the petitioner on December 13, 2003. Be that as it may, the fact that the respondents 1 and 2 had informed the School about the rejection of the request of the petitioner for change of date of birth on May 04, 2006 and the petitioner having not sought his remedy in a Court of Law immediately thereafter or even after coming back to India in the year 2008 and filing the present petition in the year 2013 with no explanation in the petition for delay, the petition is surely hit by delay and laches.

8. That apart, the byelaws of the CBSE being very clear and the vires of the said byelaws having been not challenged by the petitioner in these proceedings, the request of the petitioner for change of date of birth cannot be granted. I note for benefit that after the impugned order dated May 04, 2006, the petitioner had also passed All India Senior School Certificate Examination in the year 2008 from CBSE Board.

9. Mr. Ashok Kumar, who had relied upon the judgment in the case of

Bhagwat Dayal vs. CBSE and Ors., LPA NO. 783/2010 decided on 24.01.2011, squarely covers the case against the petitioner. In para 8, the Division Bench has stated as under:-

“8. In the present case, class 10 certificate is dated 3 rd June, 2000. Thereafter, the appellant had appeared in the All India Secondary School Certificate Examination in the year 2003. At that time also, the appellant did not challenge or ask for change of the date of birth or the name of his father. The plea taken by the appellant that he could not observe the aforesaid mistake till January, 2010 when the appellant was appearing in Civil Services Examination has been rightly not accepted. The appellant had obtained a certificate from Health Department of Government of Haryana on 2nd February, 2010 and then had approached CBSE and his school. Learned single judge has further observed that notices were issued to three schools where the appellant had studied. One school had stated that records were not available; another school had stated that no student by the appellant's name was enrolled with them and the third school where the appellant was studying when he had appeared in 10 th class examination, had enclosed copy of admission form dated 21st April, 1999, extract of the admission withdrawal register and the transfer certificate dated 31st March, 1999 issued by his previous school. In these documents, the date of birth was recorded as 18th March, 1984 and not 18th March, 1985. The appellant's

father's name was mentioned as Bhim Singh and not Bhim Sain.”

10. In fact, recently in a writ petition being W.P.(C) No. 6907/2015, I have also dismissed the writ petition, on more or less similar facts relying upon the judgment of the Division Bench in ***Bhagwat Dayal case (supra)***.

11. In view of my discussion above, I do not see any merit in the petition. The same is dismissed.

V. KAMESWAR RAO, J

NOVEMBER 30, 2016/ak