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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6042/2016

SAHIL TANDON(MINOR) THR HIS NATURAL GUARDIAN-
FATHER

..... Petitioner

Through: Mr. Satish Kumar Tripathi, Adv.

versus

CENTRAL BOARD OF SECONDARY EDUCATION AND ORS

..... Respondent

Through: Mr. Atul Kumar, Adv. for R-1 & 2
Mr. Vikas Shokeen & Mr. Ashish
Verma, Advs. for R-3
Ms. Nandita & Ms. Vrishti Gupta,
Advs. for R-4

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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28.11.2016

1. The present petition has been filed by Sahil Tandon (Minor) through his father namely Mr. Rajesh Tandon inter-alia with a prayer that the respondents be directed to rectify and correct their respective records in respect of the date of birth of the petitioner as October 30, 1998 instead of October 30, 1996.
2. It is the case of the petitioner that the petitioner was born on October 30, 1998 at Saharanpur, Uttar Pradesh. On April 10, 2005, he was admitted in Bharti Vidya Niketan, Public School, Chander Vihar, Delhi (Respondent

NO.4) wherein he studied upto Class IV. After completing his Class IV, the petitioner, who got promoted to Class V, was withdrawn and was admitted in Rajindra Public School, Nihal Vihar, Nangloi, Delhi (Respondent No.3) after completing all the formalities.

3. It is the case of the petitioner that while issuing the Transfer certificate, the Bharti Vidya Niketan, Public School, Chander Vihar had wrongly mentioned the date of birth of the petitioner as October 30, 1996 in place of October 30, 1998. Since then, the petitioner was studying in the said School i.e Rajindra Public School, Nihal Vihar, Nangloi, Delhi. The above defect was not noticed either by the petitioner or by his parents. In the meanwhile, the petitioner had passed Class X in the year 2013-14 and has since passed Class XII also in the year 2016. It is not disputed that in the Class X certificate issued by the respondents 1 and 2, the date of birth has been reflected as October 30, 1996. It was while preparing for his Class XII examinations, his parents had noted that the date of birth in the Class X certificate was erroneous and need to be rectified. It was only on the advice of the School authorities that the parents of the petitioner made a request to the office of the respondent No.2 in the month of January, 2016. The said request/representation was rejected by the respondent No.1 vide order dated

April 13, 2016.

4. The learned counsel for the petitioner would urge that as per the birth certificate, the date of birth being October 30, 1998 and the error has crept in, at the time when the school leaving certificate was issued by the Bharti Vidya Niketan, Public School, where the petitioner was pursuing his education till Class IV and the mistake cannot be attributed to the petitioner, the correct date of birth need to be reflected in the records, i.e., the classes X and XII certificates. He would also submit that in terms of the bye law, the petitioner has made a request for correction of the date of birth within one year from the date of notification of the amended byelaw.

5. On the other hand, Mr. Atul Kumar, learned counsel appearing for the CBSE has drawn my attention to the relevant byelaw, i.e., 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. He states, that in view of the stipulation and the fact that the petitioner has appeared in Class X

examination and was promoted to Class XI and thereafter has since appeared in Class XII and passed the said examination, no correction can be made. In fact, it is his submission that the rectification, as sought for by the petitioner is in fact a change of date of birth. He would also submit that the records of the respondent No.1 showing the date of birth of the petitioner, is in terms of the information given by the respondent No.3 School concerned. He would rely upon the judgment of the Division Bench of this Court in the case of ***Bhagwat Dayal vs. CBSE and Ors., LPA NO. 783/2010 decided on 24.01.2011*** wherein, in almost identical facts, the Division Bench of this Court did not interfere with the order of the learned Single Judge in W.P.(C) No. 2352/2010.

6. When the matter was listed on September 26, 2016 this Court had noted that the learned counsel appearing for the respondent No.4 had produced the original admission form of the petitioner dated August 28, 2005, wherein the date of birth of the petitioner has been recorded as October 30, 1998. I have seen the admission form during the course of the submissions. There is no dispute to the fact that the birth certificate of the petitioner records the date of birth of the petitioner as October 30, 1998. The perusal of the admission form dated August 28, 2005 also reveals that

the date of birth recorded as October 30, 1998. The question, which arises for consideration is whether at this point of time, in view of the provisions of byelaw 69.2 of the respondents 1 and 2, a change/correction can be effected.

7. It is noted from Annexure R-1/1 at page 12 of the counter affidavit filed by the respondents 1 and 2, which is an admission form filled by the mother of the petitioner at the time of admission of the petitioner in the respondent No.3 School, the date of birth has been shown as October 30, 1996. Based on the said information, the respondent No.3/School has in the admission and withdrawal register, depicted the date of birth of the petitioner as October 30, 1996.

8. That apart, the respondents 1 and 2 have issued a registration card depicting the date of birth of the petitioner as October 30, 1996. Mr. Atul Kumar is correct in contending that the date of birth i.e October 30, 1996 was shown in the records of the CBSE, based on the information given by the School concerned.

9. The plea as advanced by the learned counsel for the petitioner that the date of birth of the petitioner is October 30, 1998 as depicted in the birth certificate so also the records of the respondent No.4, is appealing but in view of Annexures R-1/1, R-1/2 and R-1/3 read with the provisions of bylaw

69.2, which inter-alia stipulates date of birth can be corrected if there are any typographical or other errors to be inconsistent with the School records. It is not such a case here as it is a change of date of birth and not correction. The case of the petitioner is not covered under the provisions of bylaw 69.2 of the respondents 1 and 2.

10. That apart, it is noted that the date of birth as October 30, 1996 was initially recorded in the records of the respondent No.4 in the year 2008. Thereafter, the name of the petitioner was registered with CBSE in the year 2012-13 when the date of birth was recorded as October 30, 1996. Thereafter, pursuant to the Class X examination, the certificate also depicts the same date of birth. As per the petitioner, the error was detected only when the petitioner was to take Class XII examination, i.e., in the year 2016, that is eight years after he took admission in respondent No.3 School when the mother of the petitioner herself stated the date of birth of the petitioner as October 30, 1996. It would be quite late in the day to seek change of the date of birth, more so, keeping in view the provision of bylaw 69.2 of the byelaws.

11. That apart, this Court is of the view that the case of the respondent would be covered by the judgment as relied upon by Mr. Atul Kumar,

wherein in para 8, the Court has observed as under, which I reproduce for benefit.

“8. In the present case, class 10 certificate is dated 3rd 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 10th 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.”

12. In so far as the plea of learned counsel for the petitioner, that the petitioner has made a request for correction of the date of birth within one year from the date of notification of the amended bye-law, is concerned as, I have held, that bye-law 69.2 has no applicability, the period of one year shall not be applicable, as it is not a case of correction, which also is impermissible in the facts.

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

V. KAMESWAR RAO, J

NOVEMBER 28, 2016/ak