

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16156 of 2016

=====

Naresh Singh son of Late Suganu Singh resident of Village- Bari Pali, P.O.- Chhoti Pali, P.S.- Narhat, District- Nawadah.

.... Petitioner

Versus

1. The Bihar School Examination Board, Patna through its Secretary, Bihar, Patna.
2. The Secretary, Bihar School Examination Board, Bihar, Patna.
3. The Chairman, Bihar School Examination Board, Bihar, Patna.
4. The Headmaster, Inter School, Nardiganj, District- Nawadah.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Respondent/s : Mr. Ajeet Pratap Singh, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 11-05-2017

Following the order passed on 9.5.2017 Mr. Yogesh Mishra, the Joint Secretary, presently officiating as In-charge Secretary is present in Court alongwith the tabulation register to inform that it records the date of birth of the petitioner as 2.4.1971.

I have perused the tabulation register and the same is returned to the In-charge Secretary for his custody.

Heard Mr. Arun Kumar, learned counsel appearing for the petitioner and Mr. Ajeet Pratap Singh, learned counsel appearing for the Bihar School Examination Board.

With the consent of the parties the writ petition has been heard with a view to final disposal at the stage of admission itself.



The writ petition was filed for a direction in the nature of mandamus commanding the respondents to modify the date of birth of the petitioner to read as 2.4.1961 in place of 2.4.1971 and accordingly, issue a duplicate matriculation certificate.

While the writ petition is pending that an order is passed by the Administrative Officer of the Bihar School Examination Board (hereinafter referred to as 'the Board'), whereby the prayer of the petitioner has been rejected vide order dated 22.10.2016 relying, inter alia, upon a resolution of the Board taken in a meeting held on 27.9.2006 bearing Agenda No.10 and which has been questioned by the petitioner by filing an interlocutory application bearing I.A.No, 477/2017 and in the nature of the contest so advanced the prayer for amendment in the relief portion of the writ petition is allowed.

I.A.No. 477/2017 is allowed. The petitioner is permitted to question the order dated 22.10.2016 of the Administrative Officer, impugned at Annexure 8 to the interlocutory application in the present application itself.

The facts of the case leading to the order impugned in brief is that the petitioner was appointed as a Constable with the State Police Force on 16.3.1981 and at the relevant time he had passed Class VIII. The date of birth given by the petitioner at the time of his appointment is 2.4.1961. It is while in service that the petitioner chose



to appear in the Matriculation Examination held in the year 1986, Admit Card of which is present at Annexure 1 and records his date of birth as 2.4.1961. The Admit Card obviously is issued under the signature of the Secretary, Bihar School Examination Board and bears endorsement of the Headmaster as well on the entries so present. The School Leaving certificate of the petitioner on passing Matriculation Examination is present at running page-17 and again records the date of birth as 2.4.1961 issued under the signature of the Headmaster of the school. The petitioner appeared in the Intermediate Examination held by the Bihar Intermediate Education Board, Patna in 1994 which again records the date of birth of the petitioner as 2.4.1961 present at running page-18. A copy of the Matriculation certificate dated 28.7.1986 issued by the Bihar School Examination Board is at running page-19 recording his date of birth as 2.4.1961.

According to the petitioner, he lost his original Matriculation certificate and thus, applied for a duplicate certificate when he gathered knowledge that the date of birth maintained in the records of the Board reads 2.4.1971 in place of 2.4.1961. The duplicate certificate issued to the petitioner mentioned his date of birth as 2.4.1971 in place of 2.4.1961. The petitioner filed an application before the Secretary, Bihar School Examination Board through the Headmaster on 17.6.2016 praying for correction of date of birth



recorded in the duplicate certificate while enclosing the duplicate certificate and copies of the Admit Card, School Leaving Certificate and the certification of the Headmaster certifying his date of birth as 2.4.1961. Copy of the application is present at Annexure 2 and the certificate of the Headmaster is at Annexure 3. The Bihar School Examination Board sought certain queries from the Headmaster vide Annexure 4 and which has been responded to by the Headmaster vide Annexure 7 in which the Headmaster while informing that the records have been destroyed, confirms that the date of birth mentioned in the certification so issued by him as well as in the Admit Card and school leaving certificate, is correct. The petitioner again represented before the Chairman of the Board but with no response and whereafter he is before this Court.

It is during the pendency of the writ petition that the prayer of the petitioner for correction of his date of birth has been rejected vide order passed on 22.10.2016 by the Administrative Officer which has been impugned at Annexure 8 to the interlocutory application and the prayer of the petitioner seeking leave to question the same stands allowed.

A counter affidavit is filed supporting the impugned order while relying upon a resolution of the Board dated 27.9.2006 and it is in reference thereto that Mr. Singh, learned counsel appearing for the



Board, has submitted that the delay is an obstruction in issuing duplicate certificate because the resolution passed by the Board prohibits any such correction after a lapse of ten years.

I have heard learned counsel for the parties and have perused the records.

In my opinion, the documents accompanying the writ petition, which includes Admit Card issued by the Board, the School Leaving Certificate issued by the Headmaster, Admit Card of the Intermediate Examination as well as copy of the Matriculation certificate issued on 28.7.1986 all forming part of Annexure 1, confirm the date of birth of the petitioner as 2.4.1961. It is the stand of the Board that the records of any candidate, is maintained only for a year and whereafter they are destroyed, however the tabulation register is maintained by the Board and which records the date of birth of the petitioner as 2.4.1971 and not 2.4.61. The resolution dated 27.9.2006 at Annexure R/3 relied upon by the respondents while contesting the case of the petitioner at paragraphs 8 to 14 of the counter affidavit in fact is contrary to the decision impugned at Annexure 8. The resolution at Annexure R/3 really supports the case of the petitioner. Para (ka) of the resolution clearly mentions that if there is a variation as regarding the date of birth in the documents issued by the Board, then there would be no limitation period for



seeking correction. Annexure 1 which is the Admit Card issued by the Board for the Matriculation Examination as well as Matriculation certificate originally issued by the Board confirms that the date of birth was accepted as 2.4.1961 and although tabulation register so produced by the In-charge Secretary today records the date of birth as 2.4.1971 but since there is a variation in the documents issued by the Board themselves, the case of the petitioner stands protected under the very resolution dated 27.9.2006 present at Annexure R/3. The other aspect of the matter which persuades this Court to grant relief to the petitioner is that he is not seeking an age advantage rather the petitioner has sought for a correction in tune with the declaration of age made by him at the time of initial appointment with the State Police Force on 16.3.1981 which advances his age by 10 years. The resolution at Para (kha) again supports the case of the petitioner because it mentions that where an applicant seeks an age advantage, such relief cannot be granted after ten years.

In the circumstances so discussed, the writ petition is allowed with a direction to the respondent Secretary of the Bihar School Examination Board to make appropriate correction in tabulation register in so far as the date of birth is concerned to read as 2.4.1961 in place of 2.4.1971 and accordingly, issue a duplicate



matriculation certificate to the petitioner within a maximum period of six weeks from today.

Surendra/-

(Jyoti Saran, J)

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17.05.2017
Transmission Date	NA

