

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

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THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 35981 of 2016
and
W.M.P. No. 30907 of 2016

Mrs. Anu Joy

.. Petitioner

Versus

1. The Secretary
Department of School Education
Secretariat, Chennai - 600 009
2. The Director of Government Examinations
College Road, DPI Campus
Nungambakkam, Chennai - 600 006
3. The Director of School Education
O/o. The Director of School Education
College Road, Egmore
Chennai - 600 006
4. The Joint Director (Personnel)
Directorate of Government Examinations
Chennai - 600 006

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the fourth respondent in Order dated 26.08.2016 vide Na.Ka.No.032990/B7-2/2016 refusing to approve the rectification of date of birth from 17.08.1989 to 19.08.1989 in the SSLC Mark Certificate and seeking to quash the same and consequently directing the respondents to take necessary steps to carry out the requisite rectifications in the SSLC Mark certificate.

For Petitioner : Mr. Anbumani, Senior Advocate
for M/s. BFS Legal

For Respondents : Mr. S. Rajeswaran
Special Government Pleader

ORDER

The petitioner calls in question the order dated 26.08.2016 of the fourth respondent whereby the fourth respondent refused to rectify and/or correct the date of birth of the petitioner in the SSLC Mark Sheet from 17.08.1989 to 19.08.1989 and for a consequential direction directing the respondents to take necessary steps to carry out the requisite rectifications in the SSLC Mark certificate.

2. The case of the petitioner is that she was born on 19.08.1989 in Alapuzha District, Kerala and her birth was registered in the Thaneermukkom Panchayat on 21.08.1989 bearing Registration No. 619 of 1989. Such certificate of birth was issued by the competent authority under Section 17 of the Registration of Births and Deaths Act, 1969. The petitioner pursued her school education from Kerala till 2003. Thereafter, since her father was transferred to Chennai, her family re-located from Kerala to Chennai. After such migration, the petitioner got admission in Asan Memorial Senior Secondary School in Chennai in IX standard. The petitioner thereafter passed S.S.L.C. as a private candidate. The petitioner has completed her school education and also graduation at Hyderabad. However, inadvertently, in all her school records, her date of birth was erroneously entered as 17.08.1989 instead of 19.08.1989. When the petitioner applied for passport, she realised the difference in the date of birth in the birth certificate as well as school records. Therefore, the petitioner sent a representation to the respondents seeking to rectify and/or modify the date of birth mentioned in the school records as 19.08.1989 instead of 17.08.1989. However, the fourth respondent passed the impugned order dated 26.08.2016 on the ground that an explanation has been sought from the Zonal Office of CBSE, Chennai. Further, the school where the petitioner pursued her schooling has not approached the fourth respondent and therefore, the fourth respondent could not pass orders for rectification of her date of birth. Challenging the order of rejection dated 26.08.2016 of the fourth respondent, the petitioner has come forward with this writ petition.

3. Mr. Anbumani, learned Senior counsel appearing for the petitioner would contend that the fourth respondent could have called for the records connected with the school records of the petitioner instead of rejecting the application on the ground that the concerned school has not approached the fourth respondent with any proposal for corrections. Further, the petitioner never pursued her education through CBSE Syllabus and therefore, the observations made in the impugned order that an explanation was called for from the Zonal Office of the CBSE at

Chennai is without application of mind. The petitioner has submitted all the necessary documents to show that her date of birth was inadvertently recorded in her school certificates and it is contrary to her birth certificate. While so, the fourth respondent, without examining the correctness or otherwise of the claim of the petitioner has simply rejected the representation of the petitioner on the ground that the school has not approached them with any request for correcting the date of birth of the petitioner. It is further submitted by the learned Senior counsel for the petitioner that admittedly, the petitioner studied IX standard in Asaan Memorial Senior Secondary School in Chennai which comes within the administrative control of the fourth respondent. Therefore, the learned Senior counsel for the petitioner would contend that the fourth respondent has failed to exercise his administrative powers properly and it had resulted in miscarriage of justice. The learned Senior counsel for the petitioner also placed reliance on the order dated 18.09.2012 passed by this Court in WP No. 8340 of 2009 (S. Rajesh Kumar vs. Secretary, Board of Higher Secondary Education, Department of Government Education, Chennai - 600 006 wherein, this Court issued a direction to the educational authorities to issue the S.S.L.C. mark sheet and other records after carrying necessary corrections in the date of birth of the petitioner therein.

4. On the contrary, the learned Special Government Pleader appearing for the respondents would contend that unless the School where the petitioner said to have pursued her IX standard has come forward with any proposal after verifying the records available with them, the fourth respondent cannot be expected to consider the claim of the petitioner. In the absence of any input having been given by the concerned school by producing the documents relating to the claim of the petitioner, the fourth respondent cannot be expected to consider the claim of the petitioner for alteration of her date of birth in the S.S.L.C. certificate.

5. I heard the learned Senior counsel for the petitioner and the learned Special Government Pleader appearing for the respondents. The petitioner, a native of Kerala State, claims to have born on 19.08.1989 in Alapuzha District, Kerala and her birth was also duly registered by the competent authority and a birth certificate dated 21.08.1989 bearing Registration No. 619 of 1989 was issued to her. Therefore, such birth certificate issued to the petitioner has to be preferred than the testimonials issued by the school authorities. In other words, the birth certificate issued by the competent authority will prevail over any other certificates in connection with any disputes relating to date of birth. In the present case, the petitioner claims to have joined admission in Asaan Memorial Senior Secondary School in Chennai to pursue her IX standard

education and thereafter studied S.S.L.C. privately. When the petitioner noticed difference in the date of birth recorded in the Birth Certificate and the school certificates, she approached the fourth respondent to cause necessary correction and/or alteration in the S.S.L.C. mark sheet issued to her. The fourth respondent did not cause any enquiry or examined the claim made by the petitioner. However, the fourth respondent simply rejected the representation on the ground that the school where the petitioner has studied has not approached the Directorate with any proposal for correction. Further, the fourth respondent has stated that the petitioner pursued her education in CBSE curriculum, which according to the learned Senior counsel for the petitioner is factually incorrect.

6. As rightly pointed out by the learned Senior counsel for the petitioner, the fourth respondent has ample powers to call for the records in connection with the claim made by the petitioner, however, the fourth respondent, without doing so or without causing any enquiry, has simply passed the order of rejection. The fourth respondent has also not gone through the documentary evidence submitted by the petitioner before passing the impugned order of rejection. In such view of the matter, the impugned order passed by the fourth respondent is set aside and the matter is remanded back to the fourth respondent for fresh consideration. The fourth respondent is directed to consider the claim of the petitioner for correction and/or alteration of the date of birth incorporated in the school records, afford an opportunity of hearing to the petitioner and thereafter pass orders on merits and in accordance with law. Such exercise shall be completed by the fourth respondent within a period of two months from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

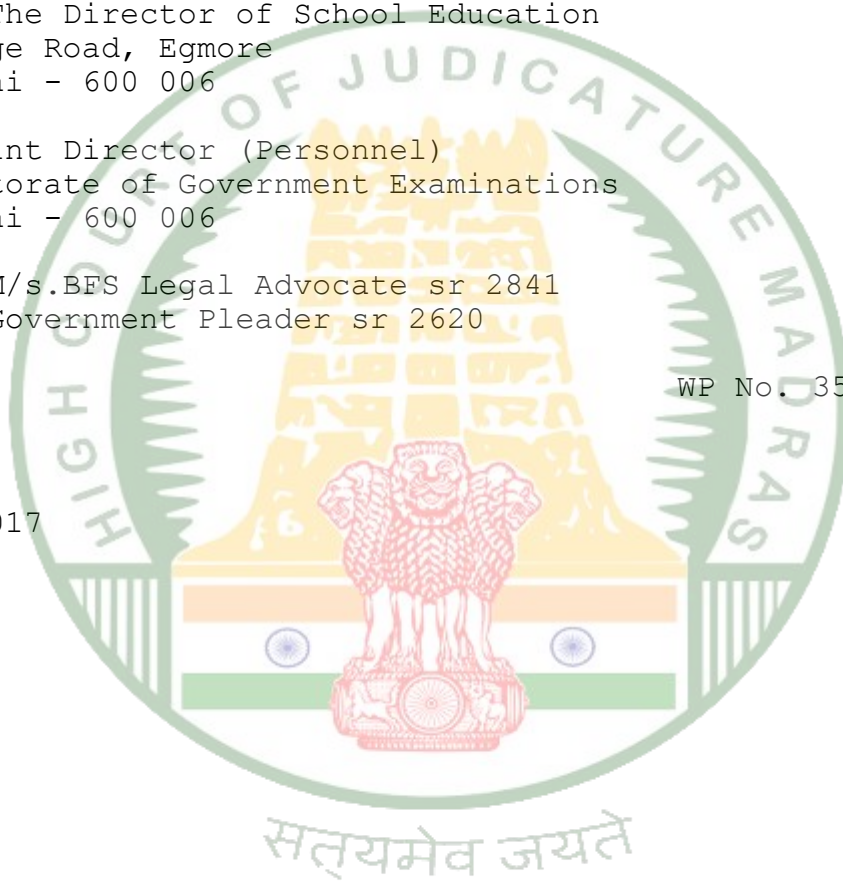
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To

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- +1 cc to M/s.BFS Legal Advocate sr 2841
+1 cc to Government Pleader sr 2620

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