

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.17792 of 2004

R.Santhoshkumar

... Petitioner

vs.

1. State of Tamil Nadu,
rep. By its Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 9.
 2. The Director of School Education,
Chennai - 6.
 3. The Director of Technical Education,
Chennai - 25.
 4. The Principal,
Thiagarajar Polytechnic College,
Salem.
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the respondents 1 to 3 to correct the date of birth of the petitioner in all the School records as 17.11.1982 instead of 04.03.1982 and to direct the 4th respondent to admit the petitioner in Diploma in Mechanical Engineering for the year 2004-2005 based on the correct date of birth.

For Petitioner : Mr.C.Vediappan
for Mr.S.Mani

For Respondents 1 to 3 : Mr.K.V.Dhanapalan,
Special Government Pleader

For 4th Respondent : Ms.Vaishali,
for M/s.S.R.Rajagopal

O R D E R

The petitioner has come up with this Writ Petition seeking alteration of his Date of Birth in his school records.

2. According to the petitioner, he completed 10th Standard in June 1999 and two year ITI course in July 2001. Thereafter, he applied for Diploma course in Polytechnic College. The upper age limit for admission in Diploma course is 22 years as on 1st July 2004. It is the case of the petitioner that he was born on 17.11.1982, but, in all the School records, his date of birth has been recorded as 04.03.1982. Hence, the petitioner applied for Birth Extract to the Salem Municipal Corporation, requesting them to show his correct Date of Birth.

3. The grievance of the petitioner is that since the educational institution where he studied refused to correct his Date of Birth in the school records, the petitioner has approached this Court by way of the present Writ Petition seeking a direction to the respondents 1 to 3 to correct his date of birth in all the School records as 17.11.1982 instead of 04.03.1982 and for a further direction to the 4th respondent to admit him in Diploma in Mechanical Engineering for the year 2004-2005 based on the correct date of birth.

4. Learned counsel for the petitioner submitted that the Birth Certificate of the petitioner issued by the Salem Municipal Corporation shows that he was born on 17.11.1982 and there is no entry in the Salem Municipal Corporation records to show that a child was born to the petitioner's parents on 04.03.1982. According to the learned counsel, if the mistake is crept in the School records, the petitioner cannot be deprived of valid admission in the Diploma course.

5. Learned Special Government Pleader appearing for respondents 1 to 3 did not object to the correction of Date of Birth of the petitioner in his school records.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. This Court passed an interim order on 07.07.2004, which reads as follows :

"The matter relates to the correction of date of birth. In the event, the petitioner succeeds in the writ petition and by the time, the selection process is over, he will be deprived of his valuable rights. Hence, the respondents are directed to consider the petitioner in the counselling and select him if he is otherwise eligible and qualified and

without reference to the age restriction. This order shall be subject to the orders in the writ petition and the petitioner shall not claim any sympathy in the event the Writ Petition is dismissed ultimately."

8. It is true that in the Birth Certificate issued by Salem Municipal Corporation, the petitioner's Date of Birth is shown as 17.11.1982 and admittedly, there is no entry in the Salem Municipal Corporation records to show that the petitioner was born to his parents on 04.03.1982. Hence, this Court is of the view that the Birth Certificate of the petitioner is a conclusive proof in itself to rely upon and thus, this Court hereby directs the respondents 1 to 3 to correct the date of birth of the petitioner in all the School records as 17.11.1982 instead of 04.03.1982. This Court further observes that the second part of the relief sought by the petitioner has become infructuous by efflux of time.

9. Under the guise of Service Rules, alteration of date of birth is sought for. The yardstick applied in the case on hand may not be applicable in all cases. It is made clear that a person, who seeks alteration of his date of birth, should have completed 15 years of age while appearing for 10th Standard Examination and if it is found that the person concerned has not satisfied the said age criteria, the employer of the person concerned can very well cancel the appointment order issued to such person and discharge him/her from service without any monetary benefits due to him/her.

10. If stringent action is taken to cancel the appointment of employees seeking alteration of date of birth, in case, the employee has not attained the minimum age to take up the qualifying examination from the School, there is a possibility of reduction of cases seeking alteration of Date of Birth.

11. The Chief Secretary to Government is directed to issue a Circular to all the Government Departments by enclosing a copy of this judgment and ensure that an employee seeking alteration of date of birth is eligible to take up S.S.L.C. examination based on his/her correct date of birth.

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This Writ Petition is allowed with the above direction and observation. No costs. Consequently, connected W.P.M.P.No.21159 of 2004 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai - 9.
2. The Director of School Education,
Chennai - 6.
3. The Director of Technical Education,
Chennai - 25.
4. The Chief Secretary to Government,
Secretariat, Fort St. George,
Chennai-600 009.

+1 cc to M/s.S.Mani Advocate sr 48885

+1 cc to Mr.S.R.Rajagopal Advocate sr 48366

+1 cc to the Government Pleader sr 48813

W.P.No.17792 of 2004

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