



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 11.07.2017

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
W.P(MD) No.7768 of 2017

and

W.M.P.(MD) No.6039 of 2017

R.Madhumidha

..Petitioner

Vs

- 1.The Director,
Department of School Education,
O/o. Department of School Education,
Nungampakkam, Chennai.
- 2.The Secretary,
State Board School Examinations(Sec),
Board of Examination, Chennai-6.
Tamil Nadu.
- 3.The District Educational Officer,
O/o. The District Educational Officer,
Karur, Karur District.
- 4.The District Educational Officer,
O/o. The District Educational Officer,
Tanjore, Tanjore District.
- 5.Bharathi VHS School,
Rep by its Head Master,
Kuzhithalai, Karur District.
- 6.CP Vidhya Mandir Higher Secondary School,
Rep by its Head Master,
Kumbakonam, Tanjore District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Na.Ka.No.21503/M/E3/2015 dated 25.03.2015 on the file of first respondent and quash the same as illegal and consequently direct the first respondent to change the petitioner date of birth as 27.08.1998 instead of 27.05.1998 in the 10th and 12th Mark Sheet within the time frame stipulated by this Court.

For Petitioner

:Mr.T.Lajapathi Roy

<https://hcservices.ecourts.gov.in/hcservices/> For RR 1 to 4

:Mr.G.Muthukannan,

Government Advocate



ORDER

The prayer sought in the Writ Petition for the issuance of writ of a Certiorarified Mandamus to call for the records pertaining to impugned order in Na.Ka.No.21503/M/E3/2015 dated 25.03.2015 on the file of first respondent and quash the same as illegal and consequently direct to change the petitioner date of birth as 27.08.1998 instead of 27.05.1998 in the 10th and 12th Mark Sheet within the time frame stipulated by this Court.

2.Heard, Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.G.Muthukannan, learned Government Advocate appearing for the respondents 1 to 4. By consent, the Writ Petition is taken up for final disposal.

3.The case of the petitioner is that she was born on 27.08.1998 at Rukmani Nurshing Home, Cauvery Nagar, Kuzhithalai, Karur District. The date of birth of the petitioner was immediately registered and also a birth certificate was issued on 03.09.1998, from the Commissioner, Kulithalai Municipality. When the petitioner was admitted in the school, her date of birth was wrongly entered as 27.05.1998 instead of 27.08.1998. Therefore, the petitioner approached the respondents, seeking change of date of birth and also submitted a representation. Since it was rejected, the present writ petition has been filed.

4. Mr.T.Lajapathi Roy, learned counsel for the petitioner would submit that, in similar of this Court, in the judgement reported in Indian Kanoon.org, **in W.P. (MD) No.23716 of 2014**, set aside the order, following the earlier order passed in **W.P. (MD) No.9340 of 2009** dated 18.09.2012 for fresh consideration.

5. Mr.G.Muthukannan, learned Government Advocate has not seriously disputed with the submission of the learned counsel for the petitioner.

6.This Court in **W.P. (MD) No.23716 of 2014** has held as follows:-

"7.The Tamil Nadu Registration of Births and Deaths Rules, 2000 have come into force with effect from 01.01.2000. Rule 11, deals with the correction or cancellation of entry in the register of births and deaths under Section 15 and that the same is extracted hereunder:

"11.Correction or cancellation of entry in the register of births and deaths under Section 15:(1)If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him and if the register is in his possession, the Registrar shall enquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or cancelign the entry) as



provided in section 15 and shall in the case of local authorities specified in column (1) of the Table below, send an extract of the entry showing the error and how it has been corrected to the officer specified in column (2) thereof.

Local Authorities(1) Officers(2) Village Panchayat Village Panchayat President Town Panchayat Executive Officer Cantonment Executive Officer Municipality Commissioner Corporation Commissioner Neyveli Lignite Corporation Chief Health Officer (2)

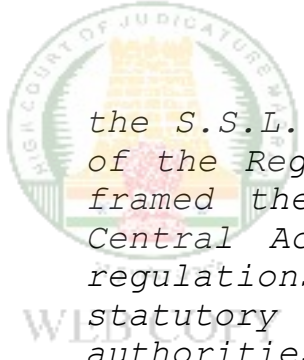
In the case referred to in sub-rule(1), if the register is not in his possession, the Registrar shall make a report to the officer specified in the Table in sub-rule (1) and call for the relevant register and after enquiring into the matter, if he is satisfied that such error has been made make necessary correction.

(3)Any such correction as mentioned in sub-rule(2) shall be countersigned by the officer specified in the Table in sub-rule (1) in this behalf when the register is received from the Registrar.

(4)If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case. (5) Notwithstanding anything contained in sub-rules (1) and (4), the Registrar shall make a report of any correction of the kind referred to therein giving necessary details to the officer specified in the Table in sub-rule(1) (6)If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been fraudulently or improperly made, he shall make a report giving necessary details to the officer authorised by the Chief Registrar by general or special order in this behalf under Section 25 and on hearing from him take necessary action in the matter. (7)In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information under section 8 or section 9".

28. Reading of the statutory provisions makes it clear that the Act provides for correction or cancellation of entry in the register of births and deaths. The decision relied on by the respondents in their counter affidavit rendered in W.P.No.4244 of 1965, dated 26.10.1965 and reported in 1966 MLJ 80, is prior to the introduction of Registration of Births and Deaths Act, 1969 and the rules framed thereunder.

29. Subsidiary Rule 5 of the Secondary School Leaving Certificate Rules, 1964, on which the respondents contend that the application for alteration in the date of birth will not be entertained after a pupil had completed his course or appeared for



the S.S.L.C public examination also is much earlier to the advent of the Registration of Births and Deaths Act, 1969 and the rules framed thereunder. Needless to say that the provisions of any Central Act, will prevail over the State Act or the rules or regulations, framed by the latter, on the same subject. When the statutory provisions stated supra, enable the competent authorities under the Registration of Births and Deaths Act, 1969, to make correction or cancellation as the case may be, the contention of the respondents that no alteration is permissible in the school records, after the student leaves the secondary education cannot be countenanced.

30.As stated supra, as per the birth certificate issued by the Sub Registrar, Thiruvattar enclosed in the typed set of papers, the name of the child entered in the said certificate is S.Rajesh Kumar. The date of birth has been shown as 19.01.1975. When the statute provides for correction or cancellation of an entry in the register of births and deaths maintained by the Sub Registrar after coming into force of the Act, the said certificate can be relied on for making necessary changes in public records which includes the records maintained in the office of the Director of Government Examinations Chennai. The contention of the respondents that the said correction can be made only before the student leaves the school and not later, cannot be accepted for the reason that any entry in the birth certificate by virtue of registration or alteration or cancellation by the competent authority under the Registration of Births and Deaths Act, 1969, has to be given effect to otherwise, the purpose for registration or alteration or modification would be defeated. There cannot be different entries in the public records maintained by different authorities, one under the Registration of Births and Deaths Act, 1969 and the other by the educational authorities. The date of birth as entered in the birth extract has to be entered in all the public records uniformly, unless and until any statutory rules, restrict such entry, like in the case of a Government servant, governed by the Tamil Nadu State and Subordinate Services Rules. In the light of the above discussion, this Court is not inclined to accept the objections of the educational authorities made on the basis of the Subsidiary rules framed before the introduction of the Central Act, 1969.

31.In the light of the decision made in W.P.No.9800 of 2009, dated 21.10.2009 in R.Deepak Vs. The Chairman Tamil Nadu Uniform Service Recruitment Board, Chennai and two others, the certificate issued by the competent authority under Registration of Births and Deaths Act, 1969, and other supporting documents relied on by the present writ petitioner has to be considered.

<https://hccourtstn.in/hccourtstn>
 32.For the foregoing reasons, the writ petition is allowed. There shall be a direction to the respondents to consider the birth extract and other evidence produced by the petitioner while



considering his representation, dated 03.09.2009 and make necessary changes, in the date of birth as 19.01.1975 in the Secondary School Leaving Certificate and the Higher Secondary Course and other certificates. The petitioner is at liberty to make a representation to the respondents along with a copy of this order and that he shall produce the original certificates for making necessary corrections. No costs."

6. In the light of the order referred supra and considering the submissions of the learned counsel appearing on both sides, the impugned order is set aside and the Writ Petition is allowed. The matter remanded back to the first respondent to pass the fresh order, in the light of the order referred supra after providing opportunity to the petitioner. The above exercise shall be complete by the respondent within a period of eight weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(Protocol)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

- 1.The Director,
Department of School Education,
O/o. Department of School Education,
Nungampakkam, Chennai.
 - 2.The Secretary,
State Board School Examinations(Sec),
Board of Examination, Chennai-6.
Tamil Nadu.
 - 3.The District Educational Officer,
O/o. The District Educational Officer,
Karur, Karur District.
 - 4.The District Educational Officer,
O/o. The District Educational Officer,
Tanjore, Tanjore District.
- +1cc to M/S.T.LAJAPATHI ROY, Advocate SR.No.64752
+1cc to Special Government Pleader, SR.No.64983

TA/CP

MAS/SV/SAR4:19.07.2017:5P-7C

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