

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.531 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the learned Single Judge in W.P.M.P. No.6775 of 2017 in W.P. No. 5558 of 2017 dated 21.2.2017.

The appellant herein is the petitioner in the writ petition. He invoked the jurisdiction of this Court seeking alteration of his date of birth from 24.9.1957 to 15.8.1959 contending that the date of birth as per the school records was 15.8.1959, whereas the service record erroneously showed his date of birth as 24.9.1957.

In the order under appeal, the learned Single Judge observed that, since the appellant's claim was to be considered in the writ petition, no direction, to correct the date of birth in the service record, more so, by way of an interim order, could be granted; and the balance of convenience was not in favour of the appellant. The W.P.M.P. was dismissed.

The learned Single Judge has, in our opinion rightly, refused to grant the interim relief sought for by the appellant-writ petitioner as it is also the main relief sought for in the writ petition. The question whether the appellant is entitled to have his date of birth corrected in the service records, nearly four decades after he joined service in the year 1979, is also a matter which is required to be examined when the writ petition is finally heard. Ordinarily, an interim relief, which has the effect of allowing the main writ petition itself, would not be granted. In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order of the learned Single Judge suffers from a patent illegality. We find no such infirmity in the order under appeal.

The writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

19th April, 2017

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