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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 28/2017**

SAHIL TANDONAppellant
Through: Mr. Satish Kr. Tripathi, Advocate.

versus

**CENTRAL BOARD OF SECONDARY
EDUCATION & ORS.**Respondents
Through: Mr. Atul Kumar, Advocate for R-1
& 2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER
09.03.2017

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SANGITA DHINGRA SEHGAL, J.

1. The appeal is preferred against the order dated 28.11.2016 passed by the learned Single Judge in W.P.(C) No. 6042/2016. The unsuccessful petitioner is the appellant before us.
2. It is the case of the appellant that he was born on 30.10.1998 at Saharanpur, U.P. and was accordingly issued Birth Certificate by the hospital and the Registrar of Birth and Death consequently. The appellant got admitted to respondent No. 4 School on 10.04.2005, wherein he studied till Class IV. Thereafter, the appellant got admitted to respondent No. 3 School in 2008 after getting a Transfer Certificate from the respondent No. 4 School. While issuing the Transfer Certificate, the respondent No. 4 School inadvertently mentioned the date of birth of the appellant as 30.10.1996 instead of 30.10.1998 and the same got recorded

in the records of the respondent No. 3 School.

3. The said inadvertent mistake of the respondent No. 4 School was not noticed by the appellant or by his parents till the time he started preparing for Class XII Board Examination in the year 2016, when he realized the defect in the previous mark-sheets and records of the Central Board Secondary Education. Thereafter, the parents of the appellant made a request to the office of the respondent No. 2 on 25.01.2016, which was rejected vide order dated 13.04.2016 on the ground of the amended Rule 69.2 of the Examination Bye-Laws which was notified vide Notification dated 25.06.2015 stating that as per the said Rule, any application, for correction in the Date of Birth of a candidate mentioned in the records of the Board, can be considered only within one year of the date of declaration of the result of the examination and not after the said period of one year.

4. Aggrieved by the order of the respondent No. 2 dated 13.04.2016, the appellant filed a writ petition bearing No. 6042/2016 before the learned Single Judge. The learned Single Judge vide order dated 28.11.2016 dismissed the petition while relying upon the decision of this Court in **Bhagwat Dayal vs. CBSE & Ors. (LPA No. 783/2010)** and held as under:-

"7. It is noted from Annexure R-1/1 at page 12 of the counter affidavit filed by the respondents 1 and 2, which is an admission form filled by the mother of the petitioner at the time of admission of the petitioner in the respondent No.3 School, the date of birth has been shown as October 30, 1996. Based on the said information, the respondent No.3/School has in the admission and withdrawal register, depicted the date of birth of the petitioner as October 30, 1996.

8. That apart, the respondents 1 and 2 have issued a

6

registration card depicting the date of birth of the petitioner as October 30, 1996. Mr. Atul Kumar is correct in contending that the date of birth i.e October 30, 1996 was shown in the records of the CBSE, based on the information given by the School concerned.

9. The plea as advanced by the learned counsel for the petitioner that the date of birth of the petitioner is October 30, 1998 as depicted in the birth certificate so also the records of the respondent No.4, is appealing but in view of Annexures R-1/1, R-1/2 and R-1/3 read with the provisions of bylaw 69.2, which inter-alia stipulates date of birth can be corrected if there are any typographical or other errors to be in consistent with the School records. It is not such a case here as it is a change of date of birth and not correction. The case of the petitioner is not covered under the provisions of bylaw 69.2 of the respondents 1 and 2.

10. That apart, it is noted that the date of birth as October 30, 1996 was initially recorded in the records of the respondent No.4 in the year 2008. Thereafter, the name of the petitioner was registered with CBSE in the year 2012-13 when the date of birth was recorded as October 30, 1996. Thereafter, pursuant to the Class X examination, the certificate also depicts the same date of birth. As per the petitioner, the error was detected only when the petitioner was to take Class XII examination, i.e., in the year 2016, that is eight years after he took admission in respondent No.3 School when the mother of the petitioner herself stated the date of birth of the petitioner as October 30, 1996. It would be quite late in the day to seek change of the date of birth, more so, keeping in view the provision of bylaw 69.2 of the byelaws.

11. That apart, this Court is of the view that the case of the respondent would be covered by the judgment as relied upon by Mr. Atul Kumar, wherein in para 8, the Court has observed as under, which I reproduce for benefit.

"8. In the present case, class 10 certificate is dated 3 rd June, 2000. Thereafter, the appellant had appeared in the All India Secondary School Certificate Examination in the year 2003. At that time also, the appellant did not challenge or ask for change of the date of birth or the name of his father. The plea taken by the appellant that he could not observe the aforesaid mistake till January, 2010 when the appellant was appearing

7

in Civil Services Examination has been rightly not accepted. The appellant had obtained a certificate from Health Department of Government of Haryana on 2nd February, 2010 and then had approached CBSE and his school. Learned single judge has further observed that notices were issued to three schools where the appellant had studied. One school had stated that records were not available; another school had stated that no student by the appellant's name was enrolled with them and the third school where the appellant was studying when he had appeared in 10th class examination, had enclosed copy of admission form dated 21st April, 1999, extract of the admission withdrawal register and the transfer certificate dated 31st March, 1999 issued by his previous school. In these documents, the date of birth was recorded as 18th March, 1984 and not 18th March, 1985. The appellant's father's name was mentioned as Bhim Singh and not Bhim Sain."

12. In so far as the plea of learned counsel for the petitioner, that the petitioner has made a request for correction of the date of birth within one year from the date of notification of the amended bye-law, is concerned as, I have held, that bye-law 69.2 has no applicability, the period of one year shall not be applicable, as it is not a case of correction, which also is impermissible in the facts."

5. The learned counsel appearing for the appellant averred that the correct date of birth of the appellant i.e. 30.10.1998 should be mentioned in the records of the respondents in place of 30.10.1996 as it was merely an inadvertent mistake committed by the respondent No. 4 School while issuing the Transfer Certificate to the appellant. However, the mistake of the respondent No. 4 School should not be attributed to the appellant and he must not be made to suffer on account of a mistake committed by the respondent No. 4 School.

6. On the converse, the learned counsel appearing for the respondent No. 1 and 2 refuted the contentions of the appellant and submitted that the

2

view taken by the learned Single Judge is correct. He further submitted that as of today, the appellant has also appeared and passed in Class XII Examinations as well and hence, no corrections in the past records can be made now.

7. We have heard the learned counsel for the parties and perused all the material available on record.

8. Before delving into the merits of the case, it would be pertinent to reproduce the relevant amended Rule 69.2 of the Examination Bye-Laws, which reads as under:-

"69.2 (i) No change in the date of birth once recorded in the Board's records shall be made. However, corrections to correct typographical and other errors to make the certificate consistent with the school records can be made provided that corrections in the school records should not have been made after the submission of application form for admission to Examination to the Board.

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*(iv) The application for correction in date of birth duly forwarded by the Head of school alongwith documents mentioned in byelaws 69.2(iii) shall be entertained by the Board only within **one** year of the date of declaration of result. No correction whatsoever, shall be made on application submitted after the said period of **one** year."*

9. On going through the amended Rule 69.2 (iv) of the Examination Bye-Laws, undoubtedly, an application for correction in the date of birth can be entertained by the Board only within one year within the date of declaration of the results and no correction whatsoever can be made thereafter. The appellant passed Class X Examinations in the year 2014

9

and moved an application for change/correction in the date of birth in the year 2016, much after the lapse of the period of one year. We cannot overlook the fact that the admission form of the appellant was filled in by his mother wherein the date of birth of the appellant was mentioned as 30.10.1996 in the year 2008 and the same was mentioned in the Admission & Withdrawal Register. It is almost after a delay of eight years that the writ petition bearing No. 6042/2016 was filed. In this background, it is not necessary for us to go into the question whether it is a case of change of date of birth or correction of date of birth of the appellant.

10. For the reasons stated hereinabove, we do not find any merit in the appeal and the same is accordingly dismissed.


SANGITA DHINGRA SEHGAL, J


CHIEF JUSTICE

MARCH 09, 2017

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