

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 16th February, 2017

+ W.P.(C) 7926/2015

ARSH GOEL

..... Petitioner

Through: Mr. Vipul Goel, Adv.

versus

CENTRAL BOARD OF SECONDARY EDUCATION
& ANR.

..... Respondents

Through: Mr. Amit Bansal & Ms. Seema
Dolo, Advs. for R1.

CORAM:-

HON'BLE MR JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

1. The present petition has been filed by the petitioner with the following prayers:-

“ It is, therefore, humbly prayed that this Hon'ble Court may be pleased;

a) to issue a writ, order and direction to the respondent No.2 to make necessary correction in its record;

b) to issue a writ, order and direction to the respondent No.1 (CBSE) to make necessary correction in its record and to issue a Class 10th Certificate and mark-sheet with the correct date of birth of the petitioner i.e 07.11.1995;

c) and may pass such other or further order as this Hon'ble Court may deem think fit in the facts and circumstances of the

case.”

2. It is the case of the petitioner that he studied at Modern School, Barakhambha Road, New Delhi-the respondent No.2 herein and had given examination of Class 10th of CBSE Board-respondent No.1 in the year 2011. I may state here even though, it has not been averred, it must be presumed that the petitioner has also given 12th Class examination in the year 2013. A request was made by the mother of the petitioner on March 16, 2015 to the respondent No.1 for change of date of birth from July 20, 1995 to November 7, 1995. The said application was accompanied by a certificate of Dr. Om Mehra, who conducted the delivery of the petitioner at the relevant time, copy of passport and the CBSE mark-sheet (certificate). The said request was rejected on April 17, 2015 by the CBSE. Subsequently, a legal notice was issued on behalf of the petitioner on May 11, 2015. The said legal notice was replied by the CBSE vide its letter dated June 7, 2015.

3. It is the contention of Mr. Vipul Goel, learned counsel for the petitioner that there is an anomaly, inasmuch as the certificate issued by the Registrar of Births & Deaths, MCD Delhi shows the date of birth of the petitioner as November 7, 1995, whereas the certificate issued by the respondent No.1 to the petitioner shows his date of birth as July 20, 1995. According to him, this anomaly need to be rectified otherwise, it would

create a problem for the petitioner in future. He would draw my attention to the judgment of Punjab & Haryana High Court in ***LPA No. 1613/2014 Ambika Kaul v. Central Board of Secondary Education and others*** and ***LPA NO. 373/2015 Shubham Attri v. Central Board of Secondary Education and others decided on May 21, 2015***, to contend that the petitioner having filed the petition on attaining majority, the Rules of CBSE, which do not permit any change of date of birth except in the case of typographical errors or other errors, that too on the basis of entries in the admission form, are arbitrary. He states, in the facts identical to the facts in hand, the Court had directed the Board to alter the date of birth, so as to be in conformity with the birth certificate issued by the Registrar, Births & Deaths.

4. On the other hand, Ms. Seema Dolo, learned counsel appearing for the respondent No.1 would contest the petition by stating that the CBSE has no role to play for recording the date of birth of the petitioner as July 20, 1995 in the certificate issued to him. She would draw my attention to the letter at Annexure P-7 (page 33 of the paper book) to contend that it is the mother of the petitioner who, while admitting the petitioner with the respondent No.2 School, had written his date of birth as July 20, 1995. According to her, the said date of birth was forwarded by the School and

was accordingly noted by the CBSE in its record, which has been reflected in the certificate. She would rely upon the following judgments in support of her contention:-

(i) W.P.(C) No. 3774/2010 Ms. Jigya Yadav (Minor) Through Guardian/Father Mr. Hari Singh v. Central Board of Secondary Education and ors;

(ii) 2011 (5) ILR (Del) 267 Chirag Jain v. CBSE and ors;

(iii) W.P.(C) No. 1063/2016 (and connected writ petition) Vyanjana v. The Chairman, CBSE & Anr.;

(iv) 2011 (180) DLT 1 Bhagwat Dayal v. CBSE.

5. Having heard the learned counsel for the parties, it is noted that the petitioner was initially admitted in Class 5th in Reghubir Singh Jr. Model School, Humayun Road, New Delhi when the date of birth of the petitioner was written as July 20, 1995. It appears that later, petitioner was admitted to the Modern School, Barakhambha Road, New Delhi to pursue his education in the higher classes and it also appears that the date of birth was recorded in the School records at Barakhambha Road as July 20, 1995. This I say so for the reason when the petitioner wrote his class 10th examination, his date of birth was reflected as July 20, 1995. The first request for change of the date of birth from July 20, 1995 to November 7, 1995 was made only in the year 2015. Suffice to state, from Class 5 to Class 12, which the petitioner passed out in 2013, the records

of the School reflects the date of birth of the petitioner as July 20, 1995. The request was made after two years of the petitioner having passed out of class 12. This Court had on August 20, 2015 that is the first date of hearing in the petition noted the amendments that have been effected in the Examination byelaws of the CBSE. Byelaw 69.2 as existed before June 25, 2015, which governs the correction of the date of birth in this case, stipulates as under:-

“(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.”

6. Suffice to state, the said clause stipulates that the date of birth once recorded in the Board’s records shall not be changed. An exception has been carved out that typographical errors, which are consistent with the School records can be made provided the corrections in the School records should not have been made after the submission of the application form for admission to the Board. In view of the said Rule, the corrections, if any as being sought, cannot be made as the date of birth noted in the CBSE certificate is in conformity with the school records.

7. That apart, I note that the date of birth has been in existence in the

school records at least from Class 5 till Class 12. During this period, no attempt was made by the petitioner or his parents to seek correction in the date of birth. The plea of Mr. Vipul Goel that the parents of the petitioner were not in good terms and as such, the said request could not be made, is not acceptable for the reason, even the request, which has been made on March 16, 2015 was by the mother of the petitioner.

8. I agree with the reliance placed by the learned counsel for the respondent No.1 on the judgments of this Court in **Ms. Jigyada Yadav (Minor) (supra)**, **Chirag Jain (supra)**, **Vyanjana case (supra)** and **Bhagwat Dayal (supra)**. In **Ms. Jigyada Yadav (Minor) (supra)**, the Division Bench of this Court in paras 21 and 22, has stated as under:-

“21. Even if one were to apply the aforesaid test one finds that the respondent no. 1 essentially records what has been mentioned in the school records consistently and that too, upto Class X, that means, for more than 10 years the child and/or her parents have the liberty to rectify the record. Consequently, we are of the opinion that the impugned Bye-law is perfectly reasonable.

22. Moreover, we are of the view that the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It

will be wholly wrong for the Court to take a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice – as contended by the respondent no. 1 in its counter affidavit.”

9. In ***Bhagwat Dayal (supra)***, the Court in para 8 has held as under:-

“8. In the present case, class 10 certificate is dated 3rd 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 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.”

10. In **Chirag Jain (supra)**, this Court has, in para 10 held as under:-

“10. The 10th certificate issued by the CBSE goes with the life of a student as this certificate is the authenticated proof of the date of birth of a student. Such certificate is invariably accepted as a valuable piece of evidence in proof of date of birth and age of the applicant throughout his career ahead and even the courts attach a high degree of probative value to the certificate and the date of birth as entered in the certificate is accepted as almost binding. A student and his/her parents have to be very careful, alert and vigilant while disclosing the date of birth at the time of submission of forms for the examination of 10th class as any error at that stage certainly can prove fatal. In the present case, the parents of the petitioner had throughout been disclosing the date of birth of the petitioner as 18.3.1991 and this would be evident from the transfer certificate issued by Maharaja Sawai Man Singh Vidyalyaya, Jaipur on 1.4.2002 and the said date of birth remained consistent in various subsequent forms filled in and signed by the petitioner and his parents. In the face of all these documents, it is hard to believe that the parents of the petitioner and the petitioner himself would keep committing the mistake in furnishing the said date of birth. The particulars in the certificates, especially the date of birth carry

with them a prima facie guarantee of correctness as they are furnished by the parents or the applicant himself and hence it is difficult to assume that they are false or incorrect. Date of birth is something that no parent or child can forget or mistake and while receiving the certificate if there is a mistake then the student would make out within no time the mistake in the certificate and take steps for immediate rectification. The contention of the counsel for the petitioner that in the passport the date of birth disclosed by the petitioner was 18.5.1991, does not find any merit in the eyes of law as the said information also must have been furnished by the petitioner or his parents and the said information could also be erroneous.”

11. In view of the pronouncements, of this Court, the judgments of the Punjab & Haryana High Court in ***Ambika Kaul (supra)*** and ***Shubham Attri (supra)*** as relied upon by the learned counsel for the petitioner would have no applicability. The prayers as made by the petitioner in the present petition cannot be granted. The writ petition is dismissed.

V. KAMESWAR RAO, J

FEBRUARY 16, 2017/ak