

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10129 of 2018

Minor P.Poornesh,
Rep. by his father

and guardian P.Narasiah

.. Petitioner

Vs.

1. The Director of School Education,
D.P.I. Campus,
College Road, Chennai.

2. The Director of Government Examination,
D.P.I. Campus,
College Road, Chennai.

3. The Headmaster,
SKPD Higher Secondary Shool,
Govindappa Naicken Street,
Chennai-600 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to change the Date of Birth of the petitioner in his SSLC Certificate and Transfer Certificate from 05.07.2001 to 05.03.1999 as per the Birth Certificate and the Aadhar Card within the time frame to be fixed by this Court.

For Petitioner : Ms.Dakshayani Reddy

For respondents : Mr.C.Munusamy, Spl.G.P.

for RR-1 and 2

Mr.Ashok Menon for R-3

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to change the Date of Birth of the petitioner in his SSLC Certificate and Transfer Certificate from 05.07.2001 to 05.03.1999 as per the Birth Certificate and the Aadhar Card within the time frame to be fixed by this Court.

2. The father of the petitioner has filed the affidavit in support of the Writ Petition stating that the petitioner was born in Nellore District on 05.03.1999. For the purpose of livelihood, they moved to Chennai. The petitioner was admitted in the third respondent-School. He completed SSLC in the year 2016. The Transfer Certificate and the SSLC Certificate were issued, in which the petitioner's Date of Birth is wrongly mentioned as 05.07.2001 instead of 05.03.1999. The petitioner studied I and II Stds. only at Nellore District and he was admitted into the third respondent-School only when he was studying III Std. It is further stated that there was some communication gap with respect to the Date of Birth at the time of admission. Since they knew only Telugu and not conversant with Tamil, an error crept in, in the information provided at the time of admission. It is further stated that the petitioner is a physically handicapped person and the discrepancy in the Date of Birth is causing great hardship. Even in the future, if the petitioner wants to pursue any vocational course or even seek any employment, the discrepancy would dis-entitle him from pursuing such venture. A representation dated 10.04.2018 was made to the respondents 1 and 2 with regard to the change of the Date of Birth, but there was no response. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

3. The third respondent has filed counter affidavit stating that the petitioner is trying to put the blame on the respondents for the mistake committed by the petitioner's parents regarding his Date of Birth. The petitioner was admitted in III Std. in SKPD Aided Primary School, No.37, Anna Pillai Street, Chennai and thereafter joined the third respondent-School in VI Std. on 15.06.2011. When he applied for admission, he had submitted the "Record Sheet" maintained by SKPD Aided Primary School, wherein his Date of Birth is given as 05.07.2001 and this was the date given in the application for admission to Class VI in the third respondent-School in the year 2011, which had been signed by the petitioner and his mother in English. The petitioner ought to have taken immediate steps to rectify the Date of Birth and ought not to have waited for two years before filing this Writ Petition. It is further stated in the counter that the relief claimed by the petitioner cannot be granted, as the petitioner has prayed for correction in the SSLC Certificate and Transfer Certificate on the basis of his Birth Certificate and also the Aadhar Card. In the Birth Certificate of the petitioner, which is enclosed in the typed set of papers filed along with the Writ Petition, the petitioner's Date of Birth is indicated as 05.03.1999, but the Certificate is dated 21.10.2017 and it appears that it has been obtained for the purpose of this case. The Aadhar Card on the other hand, is a very recent document and cannot be pressed into service. It is also stated in the counter that when the petitioner left the third respondent-School in

April 2016, they issued the Transfer Certificate, in which his Date of Birth is indicated as 05.07.2001. This is based on the Record Sheet issued by SKPD Aided Primary School, when he left that School and joined the third respondent-School in the year 2011 and it is also based on the Declaration Form that was signed by the petitioner and his mother before the petitioner sat for SSLC examination. In that form, which is called "SSLC Examination March 2016 Declaration Form for the Regular Candidate", his Date of Birth was indicated as 05.07.2001. Therefore there is no question of the petitioner's Date of Birth having been wrongly mentioned as 05.07.2001 instead of 05.03.1999 in the Transfer Certificate and SSLC Certificate. Hence, for these reasons, the third respondent prayed for dismissal of the Writ Petition.

4. Heard both sides and perused the materials available on record.

5. Normally, this Court will not grant the relief to a person who wanted to alter the Date of Birth to his advantage, i.e. postponing the Date of Birth from a particular date to another date immediately after admission. Postponing the Date of Birth from a particular date to another date after the date of admission into the School, will not be entertained. The Corporation records may show a different Date of Birth. Only when a child completes the age of five, he/she may be entitled to admission into the School. The parents, for the purpose of admitting their child into a School, may alter the Date of Birth, i.e. by advancing the Date of Birth and admit the child to School. At the time of completion of School education or thereafter, they approach the authorities and thereafter, to the Court, to correct the Date of Birth based on the Birth Certificate issued by the Corporation/Municipality, etc. If such alteration of Date of Birth is going to create a situation where the child could not have entered into School at the age of five, the entire School education is void/nullity.

6. In the present case on hand, the petitioner is a physically handicapped person and he is not seeking the postponement of the Date of Birth, but advancing the Date of Birth as per the Birth Certificate. If the Date of Birth is advanced, it certainly cannot be disadvantage to him for the purpose of employment, etc., as he may have to retire at an early age. In any event, advancing the Date of Birth is not going to cause any hindrance to anyone except the petitioner/student. As the petitioner is physically handicapped and his age is shown as over-aged, than what is stated in the School records, no prejudice is going to be caused, if the records are going to be changed to the detriment of the candidate, which the petitioner wants in this case. Hence, the Date of Birth may be corrected and advanced as prayed for by the petitioner.

7. With the above observations, the Writ Petition is disposed of, directing the respondents to change the Date of Birth of the petitioner in his SSLC Certificate and Transfer Certificate from 05.07.2001 to 05.03.1999. No costs.

Sd/-

Assistant Registrar (CS-VII)

// True Copy//

Sub Assistant Registrar

To

1. The Director of School Education,
D.P.I. Campus,
College Road, Chennai.
2. The Director of Government Examination,
D.P.I. Campus,
College Road, Chennai.

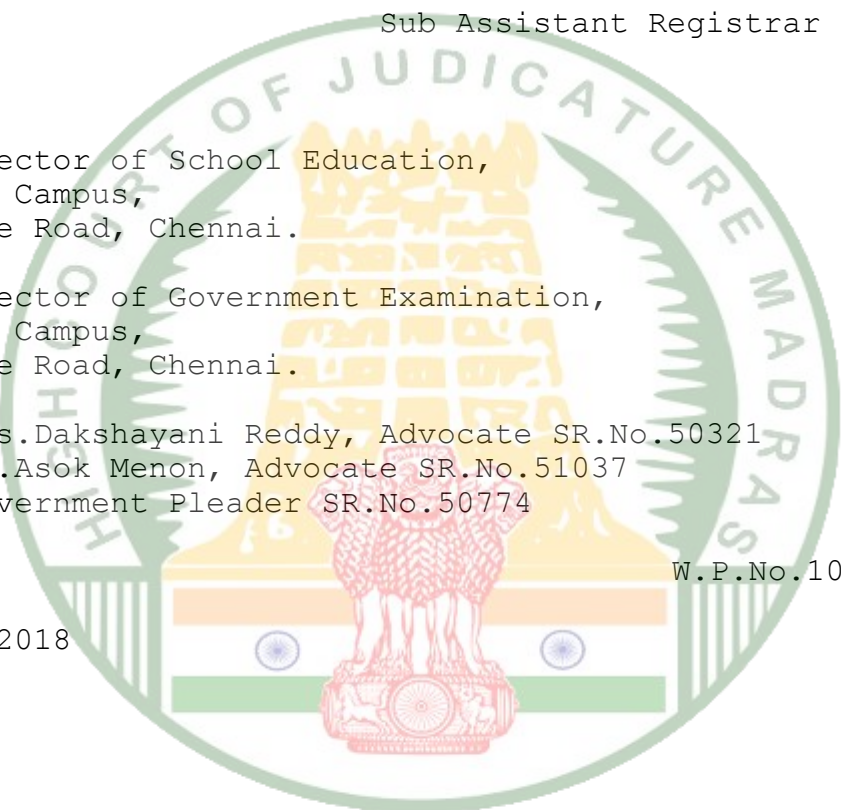
+1cc to M/s.Dakshayani Reddy, Advocate SR.No.50321

+1cc to Mr.Asok Menon, Advocate SR.No.51037

+1cc to Government Pleader SR.No.50774

W.P.No.10129 of 2018

NRJK (CO)
SMI/14.08.2018



सत्यमेव जयते

WEB COPY