

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.16510 of 2018

S.Indhumathi

.. Petitioner

Vs.

1. The Chief Secretary to Government,
Secretariat,
Fort St.George, Chennai-600 009.

2. Higher Education Department,
Secretariat,
Fort St.George, Chennai-600 009.

3. School Education Department,
Secretariat,
Fort St.George, Chennai-600 009.

4. The Directorate of School Education,
17, College Road,
Thousand Lights, Chennai-600 008.

5. The Principal,
Holy Angels Anglo Indian
Higher Secondary School,
Sir Thyagaraya Road,
T.Nagar, Chennai-600 017.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents herein to make the correction as to the date of the petitioner's birth as 17.07.1997 instead of 17.05.1997 in 10th and +2 mark sheets as per her representation dated 20.04.2018.

For Petitioner : Ms.R.Saranya

For Respondents : Mr.C.Munusamy, Spl.G.P for RR-1 to 4
Service of notice awaited for R-5

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents herein to make the correction as to the date of the petitioner's birth as 17.07.1997 instead of 17.05.1997 in 10th and +2 mark sheets as per her representation dated 20.04.2018.

2. The case of the petitioner is that she was born on 17.07.1997 in Anna Nagar, Madurai. She has completed X and XII Standards. Her Date of Birth is mentioned as 17.05.1997 instead of 17.07.1997. The Corporation of Madurai has correctly mentioned the Date of Birth of the petitioner. In school records, it is mentioned as 17.05.1997. The petitioner secured more marks and that the Date of Birth needs to be altered, for which, the petitioner made a representation, dated 20.04.2018 to the respondents, and as there is no reply, the petitioner has come forward with the above Writ Petition for the relief stated supra.

3. The respondents have not filed counter affidavit, however, the learned Special Government Pleader appearing for the respondents 1 to 4 submitted that the correction of the Date of Birth cannot be entertained. He quoted Rule 5 of the Tamil Nadu Secondary Education Certification Rules, which reads as follows:

"Entries Nos.1 to 8 on Page 1 of the Secondary School Leaving Certificate should be filled in as a Rule at the commencement of the fourth form course or as soon as the certificate is provided."

4. From the above Rule, it is clear that the correction of the Date of Birth cannot be entertained. Apart from relying on the said Rule, the Joint Director (National Service Scheme), Directorate of School Education, Chennai, has given written instructions to the Additional Government Pleader, High Court, Madras, dated 11.07.2018, in which they also rely on a decision of this Court in W.P.No.10641 of 2016, relevant portion of which reads as follows:

"4. As per Rule 5 of the Secondary School Leaving Certificate Rules, any correction in the Date of Birth, Name or initial has to be made before completing the SSLC Examination. Therefore, the respondent has got no jurisdiction to make correction in the SSLC and HSC mark list. Though the petitioner contends that he was born on 16.01.1992 and his parents have wrongly given his date of birth as 19.01.1989 at the time of admission in the school, based on the statement of the petitioner, the Criminal Court has passed an order in CrI.MP.No.1992 of 2010 on 04.06.2010 directing the Board to issue birth certificate as if he was born on 16.01.1992. No enquiry has been conducted by the Criminal Court and the only evidence available before the Criminal Court was the

statement made by the petitioner.

5. The Criminal Court has got no jurisdiction to direct the Board to issue such certificate. If that is going to be encouraged, anybody could approach the Criminal Court and correct the date of birth according to his/her convenience. This kind of issuing certificate has been discouraged by this Court. Other than the criminal court order, there is no records available to correct the date of birth of the petitioner as 16.01.1992. Even otherwise, Rule 5 of the Secondary School Leaving Certificate Rules is a bar for making correction in the school records. Therefore, the prayer sought for by the petitioner cannot be granted to the petitioner.

6. In the result, this writ petition is dismissed. No costs."

5. In terms of the above extract of the said Rule 5, the application from for change of Date of Birth could not be entertained, after pupil has completed the schooling. It is further submitted by the learned Spl.G.P. appearing for the respondents 1 to 4 that the petitioner even would have born prior to 31st May of the particular year, and that by that particular year, the child should have completed five years for entry into the I Std. during the academic year. For the purpose of entry into schooling, the parents might have given the Date of Birth as 17.05.1997.

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

7. It may be true that the petitioner was born on 17.07.1997, but for the purpose of entry into the school, the parents would have given the Date of Birth of the petitioner as 17.05.1997. If the actual Date of Birth 17.07.1997 is taken into account, then the entire qualification obtained by the petitioner/candidate will have to go, as she could not have been admitted in I Std. based on the date of birth, namely 17.07.1997. In order to admit the petitioner/student into the School, the Date of Birth has been corrected as 17.05.1997 and that the same continued till the completion of her XII Std. The student could not, later, on the ground that the parents have given the wrong Date of Birth and that needs to be altered, and that for the fault of the parents, the child/student should not be affected, cannot be accepted. If such a contention is going to be accepted, and that the petitioner wants alteration of the Date of Birth as 17.07.1997, as stated supra, the entire qualification itself vanishes, as the student has no locus-standi to enter I Std. based on the Date of Birth as 17.07.1997.

8. In view to the above, this Court cannot decide the issue even based on sympathy. If such contentions are accepted, then it will give a premium for everyone to knock at the doors of the Court to alter the Date of Birth. If for any reason the Date of Birth is altered from 17.05.1997 to 17.07.1997, then the entire qualification obtained by the petitioner is not valid in the eye of law, i.e. she is deemed to be not qualified at all.

9. Hence, for the reasons stated above, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

CS
To

1. The Chief Secretary to Government,
Secretariat, Fort St.George, Chennai-600 009.
2. Higher Education Department, Secretariat,
Fort St.George, Chennai-600 009.
3. School Education Department,
Secretariat, Fort St.George, Chennai-600 009.
4. The Directorate of School Education,
17, College Road,
Thousand Lights, Chennai-600 008.

+lcc to Government Pleader Sr.No.46127

GJII(CO)
sm:27.7.2018

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W.P.No.16510 of 2018

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