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

+ **W.P.(C) 7210/2018**

MARY KINATI WEITSU

..... Petitioner

Through: Mr.Jose Abraham and
Mr.M.P.Srivignesh, Advocates.

versus

NATIONAL INSTITUTE OF OPEN SCHOOLING AND ANR.

..... Respondents

Through: Ms.Anju Gupta and Mr.Roshan Lal
Goel, Advocates for respondent
no.2/UOI.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

24.12.2018

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The petitioner has completed her secondary and senior secondary examination from National Institute of Open Schooling (NIOS). The petitioner had enrolled for her secondary school examination with NIOS from Nagaland in the year 2014 and has completed the same on 12.12.2014 but had to give re-test in one of the subjects which she cleared on 24.11.2015.

After receiving her SSE Marks Statement dated 12.12.2014, she came to know that her date of birth had wrongly been mentioned as 08.02.1983 instead of 08.02.1993 which according to her is her actual date of birth. The petitioner sent a request for correction of date of birth in the records of respondent no.1 through the proforma for correction in admission

record by speed post on 23.04.2015. She also enclosed therewith her Birth Certificate and Aadhaar Card to prove her original date of birth. Thereafter, she made several representations to respondent no.1 but there has been no response to her representations.

In 2017, the petitioner enrolled for senior secondary examination in NIOS, Delhi and passed the same. However, on receiving her senior secondary school examination marksheet, she came to know that her date of birth was again wrongly mentioned as 08.02.1983 instead of 08.02.1993.

The petitioner has been provisionally selected for General Nursing and Midwifery course at Father Muller Schooling of Nursing, however, subject to approval by Karnataka State Nursing Council, Bangalore/wherein upper age limit for pursuing nursing course is 35 years, she, therefore, contends that if correction of date of birth is not made, her selection would be cancelled as she would be overage.

On 13.07.2018, this Court had issued notice to respondent no.1 by all permissible modes including *dasti*, returnable on 21.08.2018. The matter was thereafter adjourned from time to time. On 19.11.2018 the court had granted final opportunity of two weeks to respondent no.1 to file its reply, failing which right to file counter affidavit was to be forfeited. The matter came up on 19.12.2018 and again there was no appearance on behalf of respondent no.1 and neither any counter affidavit was filed. This court forfeited the right of respondent no.1 to file counter affidavit.

Arguments advanced by learned counsel the petitioner is that actual date of birth of the petitioner is 08.02.1993. In support of his submissions, he placed reliance on Aadhaar Card filed with petition at page 31 of the paper book indicating petitioner/applicant's date of birth as 08.02.1993. He

has also placed on record at page 32, birth certificate issued on 27.11.2014 by the department of Medical, Government by Manipur, which also bears her date of birth as 08.02.1993.

I find merit in the contentions of learned counsel for the petitioner that actual date of birth of the petitioner is 08.02.1993 and there has been a typographical error in the records of NIOS due to which a wrong date of birth is appearing.

Since the counter affidavit has not been filed by respondent no.1 and no one has chosen to appear, there is no rebuttal to the averments/documents in petition filed by the petitioner.

I find merit in the writ petition and the same is, accordingly, allowed and a direction is issued to respondent no.1 to correct the date of birth of the petitioner to read as 08.02.1993 in the official record held by them.

The petitioner submits that there is urgency in the matter, since she has secured provisional admission for General Nursing and Midwifery course and the date of birth document has to be submitted to NIOS before 31.12.2018.

In view of the submission, a direction is issued to respondent no.1 to do the needful within one week from today

Dasti to counsel for the parties.

**JYOTI SINGH
(VACATION JUDGE)**

DECEMBER 24, 2018

SSC

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