

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.767 of 2018

In
Civil Writ Jurisdiction Case No.6231 of 2018

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Ankit Kumar S/o Shatrughan Prasad, Resident of Mohalla- Khagaul, P.S.-
Khagaul, District- Patna. At present residing at T.R.D. Colony, Quarter No.
90, Bakhtiyarpur, District- Patna.

... .. Appellant/s

Versus

1. The Central Board Of Secondary Education C B S E Through Its Secretary
2. The Secretary, Central Board of Secondary Education CBSE, Shiksha Kendra- 2, 17 Rouse Avenue, Inte
3. The Regional Director DAV Public School, Patna Zone, Arya Mandir Complex, New Bailey Road, Danapur,
4. The Headmistress DAV Public School, Walmi Complex, Phulwarisharif, Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Shankar Kumar Thakur
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 09-12-2019 This Letters Patent Appeal has been preferred against

the judgment and order dated 10.05.2018 passed in C.W.J.C.

No. 6231 of 2018 by a learned Single Judge of this Court

whereby the writ petition has been dismissed.

The impugned order in toto reads as under:

This application has been filed,
seeking direction to the respondent
authorities to correct the petitioner's date of
birth from 26.04.1995 to 26.09.1995, in the



mark-sheet, certificate and other documents made available by the Central Board of Secondary Education.

2. The petitioner claims that he was born on 26.09.1995; in support whereof he has brought on record a photocopy of birth certificate issued, by Khagaul Municipality, Khagaul, Patna, on 10.06.2000. It is his case that he had appeared for 10th examination, held by the Central Board of Secondary Education, in the year 2011, which he passed in 1st division with 79 per cent of marks. It is his further case that his date of birth was wrongly recorded in the certificate and the mark-sheet issued by the Central Board of Secondary Education.

3. The necessity for seeking correction in the date of birth, according to the petitioner, arose because he was declared successful for an off-campus interview, scheduled to be held by a private company and on the basis of date of birth, entered in the certificate issued by the Central Board of Secondary Education, he was not qualifying for the interview.

4. There is no dispute about the fact that in the admit card, issued to the petitioner by the Central Board of Secondary Education, his date of birth was mentioned as 26.04.1995. There is nothing on record to



show that the petitioner ever raised any objection over the said date of birth mentioned in the admit card.

5. Evidently, the certificate and mark-sheet were issued to the petitioner in the year 2011. For the first time, the petitioner raised his grievance in 2018, seeking correction of his date of birth, that too, on the ground of the birth certificate issued by the Khagaul Municipality. This is not the petitioner's case that the said entry of date of birth is not in conformity with date of birth mentioned in his examination form.

6. I, therefore, do not find any reasonable explanation on record justifying the petitioner's claim for correction of his date of birth.

7. My attention has been drawn to Clause 69.2 of the Examination Bye-laws of the Central Board of Secondary Education, which reads thus:-

“69.2 Change/Correction in Date of Birth

(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.

(ii) Such correction in Date of Birth of a candidate in case of genuine clerical errors will be made under orders of the Chairman where it is established to the satisfaction of the Chairman that the wrong entry was made erroneously in the list of candidates/application form of the candidate for the examination.

(iii) Request for correction in Date of Birth shall be forwarded by the Head of the School along with attested Photostat copies of:

(a) application for admission of the candidate to the School;

(b) portion of the page of admission and withdrawal register where entry in date of birth has been made; and



(c) the School Leaving Certificate of the previous school submitted at the time of admission.

(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 two years of the date of declaration of result of Class X examination. No correction whatsoever shall be made on application submitted after the said period of two years. This will be effective from the examination to be held in March, 1995.”

8. The said provision clearly stipulates that typographical error in the date of birth may be corrected to make the certificate consistent with the school records. It further provides that a request for correction in the date of birth to the Central Board of Secondary Education has to be forwarded by the Head of the School, along with attested photostat copies of the following documents:-



(a) application for admission of the candidate to the School;

(b) portion of the page of admission and withdrawal register where entry in date of birth has been made; and

(c) the School Leaving Certificate of the previous school submitted at the time of admission.

9. The petitioner has not even approached the Headmaster of the concerned School. He did not approach the Central Board of Secondary Education for correction of his date of birth. A plea is being raised that the petitioner did not approach the Central Board of Secondary Education because application for correction of date of birth has become time-barred.

10. Time without number, the Supreme Court has held that only in exceptional circumstances, that too on the basis of clinching materials, the Court can issue direction for correction in the date of birth if such application is made within reasonable time.

11. The Supreme Court in case of *State of Punjab vs. S.C. Chadha, reported in (2004) 3 SCC 394*, has held that unless a clear case on the basis of clinching materials, which can be held to be conclusive in nature, is made out and that too within a reasonable



time, the Courts or Tribunal should not make a declaration on the basis of materials which make such claim only plausible. In my view, in the present case, even plausible claim has not been made out on the basis of the facts asserted in the writ petition.

12. I, therefore, do not find any merit in this application. This application is, accordingly, dismissed.

We find no illegality and infirmity in the impugned order dated 10.05.2018 passed by learned Single Judge in C.W.J.C. No. 6231 of 2018 (Ankit Kumar Vs. The State of Bihar & Ors.).

Since the disputed questions of fact are involved in the present application, the learned Single Judge has rightly held the same not fit to be adjudicated in this court.

The appeal stands disposed of.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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