

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1436 of 2017**

Ayush Tiwari, S/o. Shri Yogesh Tiwari, Aged About 19 Years, R/o. Ward No. 20 Behind Old Bus Stand, Janjgir, P.S. Janjgir, District Janjgir Champa, Chhattisgarh.

---- **Petitioner**

Versus

1. Chhattisgarh Board Of Secondary Education Delhi, Through Chhattisgarh Board Of Secondary Education, P.S. 1, Institutional Area I.P. Extension, Patrapganj, Delhi, India
2. Secretary, Regional Office, Chhattisgarh Board Of Secondary Education, 6th Floor, Alok Bharati Building Shaheed Nagar, Bhubaneswar P.S. Bhubneshwar District Bhubaneswar, Orissa
3. Principal, Hari Ram Gattani Memorial Jay Bharat English Medium School Janjgir, P. S. Janjgir, District Janjgir Champa, Chhattisgarh.

---- **Respondents**

For Petitioner : Ms. Deepali Pandey, Advocate

For Respondent No.2 : Mrs. Naushina Ali, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

18.09.2019

Heard.

1. The present petition is only for correction of date of birth in the CBSE Class 10th Mark Sheet (Annexure P-6) bearing Registration No.B114/10267/0113 of Roll No.6144941.
2. It is contended on behalf of the petitioner that the petitioner received the mark sheet of CBSE Class-10th wherein the date of birth of the petitioner was shown to be 06.11.1997 whereas the actual date of birth of the petitioner is 11.06.1998. It is further stated that after the petitioner came to know of the fact immediately they contacted the Principal of the School and the Principal vide communication dated 16.10.2014 (Annexure P-7) sent a letter to the Regional Office, CBSE Bhubneshwar, Odisha, where-from the

mark sheet was issued with a request to change the date of birth of the petitioner from 06.11.1997 to 11.06.1998. Learned counsel for the petitioner further would submit that the said letter was sent by a registered post on 18.10.2014 and the letter was sent would be seen by communication Annexure P-11 made by the Postmaster which purports that letter was sent by speed post to CBSE Regional Office, Bhubneshwar. It is further submitted that because of the fault of the respondents, wrong date of birth has been entered on the mark sheet which may be corrected. The petitioner further would submit that when the initial communication was not replied, another communication was made on 30.04.2016 (Annexure P-8), however, the said request was rejected by Annexure P-1 dated 16.07.2016 on the ground that change of date of birth can only be entertained if the application for change is received within one year from the date of publication of the result. It is contended that because of the fault of the respondents, the earlier communication was not acted upon, therefore, for their fault the petitioner cannot be made to suffer.

3. Per contra, learned counsel for the respondent No.2 would submit that the correction in the date of birth according to the Regulation 69.2(iv) of the CBSE could have been made within one year from the date when the application is received within one year of the declaration of result and since the application was received by the Board after one year of declaration of the result, consequently the same could not be corrected. She further submits that the first communication was made on 16.10.2014 and no further communication was made for two years; therefore, the action on the part of the CBSE is well merited.
4. Perused the documents filed along with the petition. Apparently tenure of the prayer made and the nature of issue involved, it appears that it is not an adversary litigation. The student whose date of birth has been wrongly shown in the mark sheet sought for correction of the same from 06.11.1997

to 11.06.1998. The record would show that the declaration of result was made on 20.05.2014 as per Annexure P-6 i.e. mark sheet wherein the date of birth of the petitioner is shown as 06.11.1997. The letter Annexure P-7 copy of the letter dated 16.10.2014 is on record which purports that the Principal of the School wherein the petitioner was studying made a communication with the Regional Office, CBSE, Bhubneshwar to change the date of birth. The copy of the postal receipt dated 18.10.2014 is also placed on record and also the communication from the postal department Annexure P-11 which fortifies the fact that communication to change the date was sent on 18.10.2014 by speed post i.e. within six months of date of result.

5. The contention of the respondent that what document is being sent is not within the knowledge of the respondent as the same was in custody of the School and the communication is based on in between the Postmaster Janjgir and the School; therefore, the presumption of fact that the letter dated 16.10.2014 was sent to the respondent sway in favour of the petitioner that such communication was made. The subsequent communication was also made which is of the year 2016 to correct the date of birth, which was denied.
6. Considering the nature of the request and the documents which are on record including the birth certificate of petitioner wherein the date of birth is shown that of 11.06.1998 and the fact prima facie appears that the communication was made within stipulated time to the respondents on 16.10.2014 (Annexure P-7) by the Principal of the School to correct the date of birth, the respondents are directed to carry out the correction of date of birth in the mark sheet of the petitioner bearing Registration No.B114/10267/0113 of Roll No.6144941.

7. The petitioner shall oblige to sent back the original mark-sheet to the CBSE so that the correction may be carried out and fresh mark-sheet can be issued. The petitioner should pay a demand draft of Rs. 1,000/- in the name of Secretary of CBSE Bhuvneshwar and the demand draft shall be submitted before CBSE.
8. Upon receipt of the documents, necessary steps shall be carried out to ensure to record the date of birth of the petitioner as 11.06.1998 in the mark-sheet and fresh mark-sheet be issued in favour of the petitioner. It is further directed that the aforesaid action shall be carried out within a period of two months from the date of receipt of a copy of this order along with the documents including the demand draft and the entire formalities be completed and fresh mark sheet be issue to the petitioner.
9. In view of the above, the petition is allowed to the above extent.

Sd/-
Goutam Bhaduri
Judge