

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 13316 OF 2019

ORDER :

This writ petition is filed challenging the action of the respondent No.2 in issuing proceedings dt.01.02.2017 in returning the proposal of the petitioner for correction of date of birth in SSC Memo as 14.05.1994 instead of 10.05.1984 and to set aside the same, and for a consequential direction to respondent No.2 to correct the date of birth of petitioner as 14.05.1994 and a direction to 5th respondent to appoint the petitioner as Sub-Inspector.

It is the case of the petitioner that she is a resident of Cheruvumadaram Village, Nelakondapally Mandal, Khammam District and belongs to Schedule Caste community. She passed 10th class and Intermediate in first division and graduation in B.Sc.(Bio Technology) in the year 2016 in second division. The grievance of the petitioner is that in all records her date of birth is shown as 14.05.1994, except in SSC memo in which it was mentioned as 10.05.1984. It is stated that when she was minor her father has applied for correction of surname and also date of birth and the school authorities of Nelakondapally (Ushodaya Vidyalayam) submitted proposals by enclosing all relevant documents to the higher authorities stating that due to the mistake committed by the school, the date of birth of the petitioner was mentioned as 10.05.1984 instead of 14.05.1994 in SSC school certificate issued by the 3rd respondent; that thereafter the respondent No.4 vide proceedings dt.18.01.2017 submitted proposal for correction of date of birth of the

petitioner in SSC Memo; but, however, the respondent No.2 has issued impugned proceedings dt.01.02.2017 returning the proposals on the ground that the petitioner failed to apply to the competent authority within three years after completion of SSC as per G.O.Ms.No.430, Education Department, dt.31.12.1992. Aggrieved by the same, present writ petition is filed.

Learned counsel for the petitioner submits that basing on the representation of the petitioner, the District Education Officer sent proposal vide proceedings in Rc.No.458/A7/Corre./2017, dt.18.01.2017 to the 2nd respondent to take necessary action for correction of date of birth of the petitioner; that the Head Master of the school where petitioner studied 10th class has also addressed a letter dt.17.01.2019 to the 4th respondent stating that due to mistake is on their part the date of birth of the petitioner was wrongly recorded in the school records and sent to the SSC Board; and that the petitioner cannot be penalised for the mistake committed by the school authorities. He also relied on the Judgment rendered by this Court in *Gogineni Gnana Jyothi v. State of A.P.*¹.

On the other hand learned Assistant Government Pleader for Education submits that G.O.Ms.No.430, dt.31.12.1992, empowers the Director of School Education to entertain and effect correction or alteration in respect of applications for correction or alteration of date of birth; that as the petitioner has not applied within stipulated time, the

¹ [(2015) 3 ALD 530]

authorities have rightly rejected the proposal for correction of date of birth of the petitioner and the same cannot be faulted. In support of his contention he relied on the Judgment rendered by this Court in WP.No.34969 of 2016 which was confirmed in WA.No.444 of 2017, dt. 20.04.2017.

In this case it is to be seen that the request of the petitioner for change of date of birth was returned only on the ground that the petitioner could not make application within three years from the date of completion of her SSC, in terms of G.O.Ms.No.430, Education Department, dt.31.12.1992. Prima facie a reading of the letter dt.17.01.2017 issued by the school authorities, where petitioner studied, goes to show that due to mistake of school authorities the date of birth of the petitioner was wrongly recorded in SSC. Considering all these aspects the District Education Officer has also sent a proposal to the 2nd respondent dt.18.01.2017 for taking necessary action.

This Court in similar circumstances in *Gogineni Gnana Jyothi'* case (*supra*) held as follows;

“9. The facts of the present case, in my view, stand a different footing inasmuch as a mistake appears to have occurred at the SSC Board, as the petitioners school certificates throughout mentions the correct date of birth. The said mistake, which occurred in the SSC Board, is apparently a clerical or typographical mistake and when the said mistake is brought to the notice of the competent authority, it ought to have corrected the said mistake itself, inasmuch as the petitioner would be shown older by two

years if the date as per the SSC Certificate is to be accepted. The date of birth of the petitioner from primary level to class X, having been correctly recorded, mere recording of erroneous date by the SSC Board in its record obviously cannot put the petitioner to a serious prejudice. The judgment of the Division Bench in WA.No.1021 of 2010, referred to above, distinguished G.O.Ms.No.430, dated 31.12.1992 as the said mistake cannot be attributed to the petitioner. The parameters under the said G.O.Ms.No.430, dated 31.12.1992, therefore, are not attracted as held by the Division Bench. In my view, therefore, the aforesaid decision is clearly applicable to the facts and circumstances of the present case and as such, is required to be followed in this case also.”

Though learned Assistant Government Pleader for Education relied on the Judgment in WP.No.34969 of 2016, that is a case where the date of birth of the petitioner therein was wrongly recorded even at the initial stage of his admission in the school. But, in the present case prima facie the record goes to show that the petitioner is not at fault. The school authorities have committed that mistake. The Judgment relied on by the petitioner in *Gogineni Gnana Jyothi's (supra)* case was also referred by the learned Single Judge in WP.No.34969 of 2016 out of which WA.No.444 of 2017 arose. Learned Single Judge has clearly distinguished the said Judgment at page 11 which reads as follows;

“The case of **Gogineni Gnana Jyothi (supra)** relates to the correction of clerical/typographical mistake. In the said case the date of birth was correctly mentioned in various school records, but only in the case of Secondary School Certificate it was wrongly printed. In those circumstances, the writ petition was

allowed by directing the respondents to verify the school records from primary level to Class X and for correction of SSC records including the SSC certificate by showing the correct date of birth.”

In view of the same, the law laid down by this Court in the aforesaid Judgment (*Gogineni Gnana Jyothi*) applies to the facts of the present case.

Accordingly the writ petition is allowed and the 2nd respondent is directed to reconsider the case of the petitioner after re-verifying the school records of the petitioner from primary level to Class X and after satisfying, pass appropriate orders for correction of date of birth of the petitioner in SSC records including the SSC certificate of the petitioner by showing the correct date of birth, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

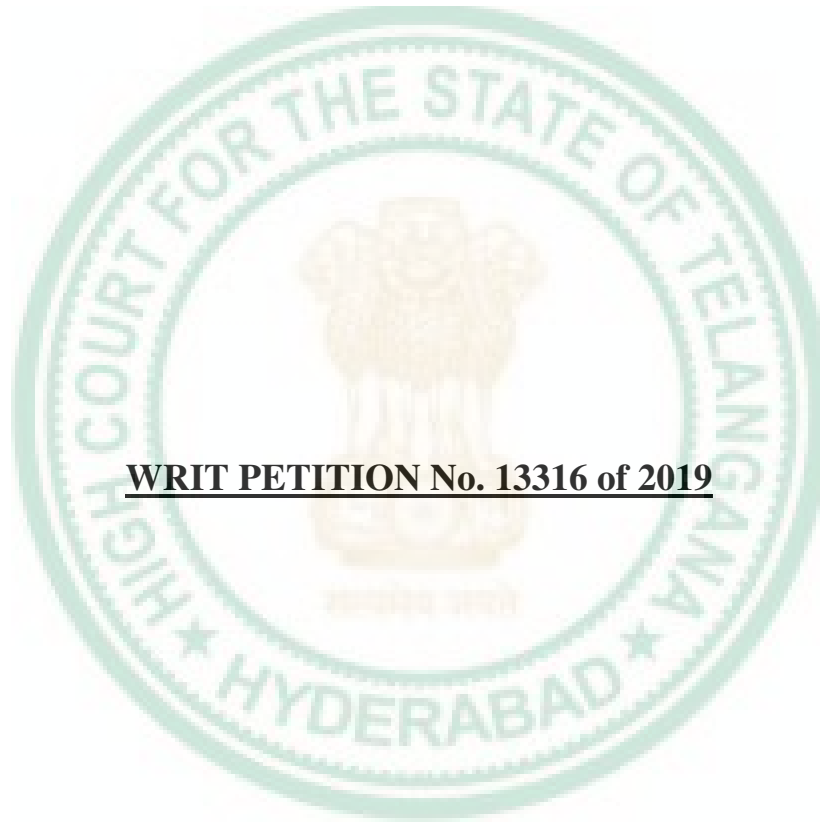
As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

10.07.2019

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