

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.C.NO.286 OF 2016

ORDER

Seeking for a direction to the respondents to consider his application for correction of his date of birth, which was wrongly entered in his school records as 16.08.1991 instead of 16.08.1993, petitioner filed W.P.No.12765 of 2013.

This court by order dated 10.12.2014 disposed of writ petition by directing the respondent authority to consider the request of the petitioner for correction of his date of birth, after satisfying itself of the genuineness of the certificate given by the GHMC, and thereafter pass appropriate orders in accordance with law.

In pursuance of the above directions of this court, the respondent - Chairman, Central Board of Secondary Education, Delhi, passed order dated 15.10.2015 rejecting the request of the petitioner.

Complaining that the order dated 15.10.2015 passed by the respondent is not in compliance with the directions of this court, the present contempt case is filed.

Learned Senior Counsel Sri C.Nageshwar Rao appearing for the petitioner submits that the date of birth of the petitioner is 16.08.1993 and the date of birth certificate issued by GHMC is also to the said effect. He submits that the father of the petitioner is an employee in Railways, and hence was holding a transferable job, and, therefore, the maternal grandfather of the petitioner joined the petitioner in school, and in the school

records, the date of birth of the petitioner was entered erroneously as 16.08.1991 and same was reflected in the Secondary School Examination Certificate issued by the Central Board on 29.05.2007, and for correction of date of birth, petitioner approached the Board in January, 2013 and as no action was being taken, he filed writ petition. Learned Senior Counsel submits that Bye-Law 69.2 of Examination Bye-Laws, 1995 framed by Central Board of Secondary Education, deals with change / correction of date of birth. Under sub-clause (iii) of the said bye-law, the application for change/correction of date of birth of a candidate has to be forwarded by the Head of the School, within five years from the date of declaration. In the present case, the petitioner has not applied for change of date of birth through the Head of the School, and therefore, the learned Single Judge held that the limitation prescribed under the said bye law, is not applicable and it was also held that the prescription of time limitation under said bye-law, cannot be treated as prescription of limitation under the statute like Limitation Act, and accordingly the respondent herein was directed to consider the request of the petitioner for change of date of birth after satisfying himself of the genuineness of the certificate given by the GHMC. Learned Senior Counsel submits that if the records are not made available by GHMC, enabling the respondent, to consider the case of the petitioner, he could have stated the said circumstance in the impugned order and rejected the claim of the petitioner, but instead of that, the respondent, considering the limitation under the above said sub clause, which this court specifically held that it is not applicable, rejected the case of the petitioner, and it amounts to willful disobedience on the part of the respondent, and hence liable for contempt.

On the other hand, Sri A.Chayadevi, learned Standing Counsel for Central Board of Secondary Education, based on the averments made in the counter affidavit, submits that as per the directions of this court, the respondent called for the information from the GHMC with regard to the correct date of birth of the petitioner, but there was no response. Therefore, the respondent, in order to consider the request of the petitioner for change of his date of birth, called for information from the schools where the petitioner studied, and in the said enquiry, the respondent found that the parents of the petitioner signed the declaration forms of the petitioner at the time of his admission in the said schools, and in those declarations, the father of the petitioner, who is a Central Government employee, working for Railways, categorically mentioned the date of birth of the petitioner as 16.08.1991. Therefore, the request of the petitioner was rejected. She submits that though in the order dated 15.10.2015, rule position under above said law by-law was referred to, in fact, the respondent considering the factual aspects based on the documents signed by the father of the petitioner, rejected his request for change of date of birth. She further submits that if the petitioner is aggrieved by the order dated 15.10.2015, he can challenge the same in appropriate proceedings, but its merits cannot be agitated in the contempt proceedings. With these averments, she sought to dismiss the writ petition.

Along with the counter affidavit, the respondent has produced the copies of the declaration forms signed by the parents of the petitioner wherein it is specifically indicated that the date of birth of the petitioner as 16.08.1991. In the writ affidavit, it is stated that the maternal grand father of

the petitioner admitted the petitioner in school, as the father of the petitioner was holding a transferable job, and it was recorded erroneously as 16.08.1991 instead of 16.08.1993. The ground taken by the petitioner in the writ petition, in the light of declaration of the parents of the petitioner, appears to be not borne out of the record, since the father of the petitioner signed the declaration forms of the petitioner. Be that as it may, this court under the contempt proceedings, cannot go into the correctness of the order passed by the respondent, and if the petitioner is aggrieved by the same, he is always at liberty to challenge the same in appropriate proceedings.

Since the respondent has complied by the order passed by this court by passing order dated 15.10.2015, I do not find any willful disobedience on his part warranting invocation of contempt proceedings.

Hence, the contempt case is closed, leaving it open to the petitioner to challenge the proceedings dated 15.10.2015 in accordance with law.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DATE:08—11—2019

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