

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.16029 of 2019

Date of decision: 23.09.2019.

Simran

... Petitioner

Versus

Regional Officer, Central Board School Education (C.B.S.E.) Sector 5,
Panchkula.

...Respondents

Before: Hon'ble Mr. Justice B.S. Walia.

Present: Mr. P.K. Chugh, Advocate for the petitioner.

Mr. Naveen Chopra, Advocate for the respondent.

B.S. Walia, J. (Oral),

1. Prayer in the writ petition is for the issuance of a writ of Certiorari for quashing communication Annexure P/8 dated 01.05.2019, whereby the request of the petitioner for change of her date of birth was rejected. Prayer is also for the issuance of a writ of Mandamus for directing the respondents to correct the petitioner's date of birth from 24.12.1997 to 24.12.1996.

2. Brief facts of the case leading to the filing of the writ petition are that the petitioner passed her 8th class examination from St. Josephs School, Ambala in the year 2010, where after she took admission in DAV Public School, Ambala, on the basis of transfer certificate issued by St. Josephs Public School, Ambala, in which her date of birth is stated to be recorded as 24.12.1996. After passing 9th

class examination from DAV Public School, Ambala, in the year 2011, the petitioner took admission in Bhawan Vidyalaya, Panchkula, from where the petitioner passed her matriculation examination in the year 2012. Bhawan Vidyalaya, Panchkula is affiliated to the CBSE and the petitioner was issued matriculation certificate by the CBSE authorities showing her date of birth as 24.12.1997.

3. Learned counsel contends that the mistake in the date of birth of the petitioner recorded in the matriculation certificate came to the notice of the petitioner when she planned to go abroad, as she got her passport issued in the year 2012 on the basis of actual date of birth i.e. 24.12.1996 besides her driving license was also issued on the basis of her date of birth i.e. 24.12.1996. The petitioner made a request for correction of her date of birth as recorded in the 10th class examination certificate to the respondent vide Annexure P/7 dated 21.04.2019. However, the same was rejected vide communication Annexure P/8 dated 01.05.2019 on the ground that application for correction had not been submitted in time in terms of Rule 69.2 (iv) of the CBSE Bye-Laws, 1995. Rule 69.2 (iv) of the CBSE Bye-Laws is reproduced as under:-

“The application for correction in date of birth duly forwarded by the Head of School along with documents mentioned in bye laws 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.”

4. A perusal of the bye laws reveals that application for correction of date of birth is to be forwarded by the Head of the School along with the documents mentioned in Bye-Law 69.2 (iii) within two years of the date of declaration of result of Class 10th examination and no correction whatsoever is permitted on an application submitted after the expiry of aforementioned period of two years. Admittedly, the application for change of date of birth in 10th class examination certificate was submitted by the petitioner after seven years of the declaration of her result in derogation of Bye Law 69.2 (iv) of the CBSE Bye-Laws.

5. Reference is also made to the decision of a Division Bench of this Court in *Ambika Kaul vs CBSE and others* 2015 (2) RSJ 606. Relevant extract of the same is reproduced as under :_

[22] But In respect of the persons born after the applicability of the Act, the matter requires to be examined from a different angle. The Act gives statutory recognition to the birth certificates. It is a mandatory requirement for all persons in all conceivable situations to report about the birth and death to the Registration Officers. The Central Board of Secondary Education makes it mandatory to produce date of birth certificate issued by the Registrar of Births and Deaths, wherever existed, as proof of date of birth. If a person does not give date of birth certificate issued by the Registrar at the time

of admission to a school, he does it at his own peril. Once he has disclosed a particular date of birth, completed education; he is estopped to rely upon the birth certificate issued by the Registrar of Births and Deaths, at a later stage of life. The admission to a School is to be based upon a date given by the candidate, which date continues to be reflected in the matriculation certificate as well. Therefore, once a candidate has completed his education on the basis of an assumed date, in conflict with the birth certificate issued by the Registrar of Birth and Deaths, he is estopped to rely upon the birth certificate at the later stage of life.

[42] The fact is that every person grows with the date of birth as mentioned in the matriculation certificate. He is aware of such date of birth. Giving allowance of minority will lead to uncertainties and inconsistencies in the records of public authorities. Therefore, though a person is estopped to dispute the date of birth entry recorded in the matriculation certificate, but even if he approaches the Civil Court to seek exclusion of the minority period in terms of Section 6 of the Limitation Act, 1963, such suit cannot be entertained after three years from his alleged date of attaining the age of majority. In no case, the date of birth recorded in the matriculation certificate should be corrected after three years of attaining majority on the basis of date of birth in the birth certificate.

6. A perusal of the relevant extract of the decision in Ambika Kaul's case (supra) reveals that admission to a school is to be based upon a date given by the candidate, which date continues to be reflected in the matriculation certificate, therefore, once, a candidate has completed his/her education on the basis of an assumed date, in conflict with the birth certificate issued by the Registrar of Births and Deaths, he/she is estopped from relying upon the birth certificate at a later stage of life and further that the date of birth as mentioned in the matriculation certificate can be allowed to be corrected at best within a period of three years from alleged date of attaining age of majority. Admittedly, the date of birth as reflected in the matriculation certificate issued by the CBSE was based on the record as was submitted by the Bhawan Vidyalaya, Panchkula i.e. school from where the petitioner cleared her matriculation examination. Record with regard to date of birth of the petitioner was submitted by Bhawan Vidyalaya, Panchkula to the CBSE authorities on the basis of record made available to it which included the school leaving certificate issued by DAV Public School, Ambala, where the petitioner was studying prior to studying in Bhawan Vidyalaya, Panchkula, in which the date of birth of the petitioner was reflected as 24.12.1997. The certificate issued by DAV Public School, Ambala was submitted by none else then the petitioner/her guardians to Bhawan Vidyalaya, Panchkula authorities. The record as received by the petitioner/her guardians from DAV Public School, Ambala mentions the date of birth of the petitioner as 24.12.1997. The said date of birth was entered in

the school record of Bhawan Vidyalaya, Panchkula and it was said date of birth which was forwarded by Bhawan Vidyalaya, Panchkula to the CBSE authorities at the time of sending the petitioner's name for being allowed to appear in the matriculation examination conducted by the CBSE. No protest whatsoever was raised by the petitioner at that point of time nor for that matter was a protest raised by the petitioner for a good number of years and in the intervening period of time, the petitioner got her passport and driving license issued mentioning her date of birth as 24.12.1996. The petitioner has sought correction of her date of birth in the matriculation examination certificate issued by the CBSE in the year 2012, only in the year 2019, thus, the same is clearly barred by CBSE Bye-Law 69.2 (iv), 1995 as well as the decision of Hon'ble, the Division Bench of this Court in Ambika Kaul's case (supra).

7. In the light of the position as noted above, the writ petition being bereft of merit is dismissed.

(B.S. Walia)
Judge

23.09.2019

rajesh.k.khurana

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| 1. Whether speaking/reasoned | : | Yes/No. |
| 2. Whether reportable | : | Yes/No. |