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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 203/2017

MOHAMMAD REHAL ALAM Appellant
Through: Mr.Jitendra Bharti, Advocate

versus

CENTRAL BOARD OF SECONDARY EDUCATION & ORS

.....Respondents
Through: Mr. Ashok Kumar, Advocate for
respondent No. 1/CBSE
Mr.Ripu Daman Bhardwaj, CGSC
with Mr. Ashok Kumar, Advocate for
respondent/UIO
Mr. Mohinder J.S.Rupal, Mr. Koushik
Ghosh, Ms.Manisha Relia, Advocates
for respondent/University of Delhi

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **05.12.2019**

1. The appellant is aggrieved by the judgment dated 30.11.2016, passed by the learned Single Judge dismissing a writ petition filed by him, whereunder he had sought issuance of a writ of certiorari, for quashing a letter dated 11.05.2006, issued by the respondents No. 1 and 2/CBSE. Further, the appellant had prayed for directions to the respondents to correct his date of birth as '10.03.1989', in place of '10.03.1987', as reflected in the Certificate issued by the CBSE, upon his clearing the All India Secondary School Examination, 2006.

2. The brief relevant facts of the case, as narrated by the appellant, are

that he was born on 10.03.1989, in Bihar. The appellant's father was working in Jeddah, Saudi Arabia. Through his father, the appellant had applied for a passport in the year 1988-1989. The Passport Authorities had issued a passport in favour of the appellant on 23.06.1999. It is the version of the appellant that the Passport Authorities had mistakenly printed his date of birth as 10.03.1987, instead of 10.03.1989 on the passport. The appellant shifted to Jeddah with his father and took admission in a school there in Class 7. The school authorities also recorded his date of birth in the admission register as 10.03.1987, based on the date of birth mentioned in his passport. Thereafter, the appellant took admission in Class 9 in the International Indian School, Jeddah, affiliated to the respondents No. 1 and 2/CBSE. On 07.02.2006, the appellant through his father applied to the Passport Authorities for a correction of his date of birth in the passport. Based on the said representation, accompanied by the Birth Certificate issued in his favour on 31.12.2003, the Passport Authorities rectified the appellant's date of birth in his passport as '10.03.1989', in place of '10.03.1987', on 15.02.2006.

3. Armed with the passport reflecting his date of birth as '10.03.1989', the appellant's father wrote to the school at Jeddah on the very same day, stating *inter alia* that mistakenly, the appellant's date of birth had been registered as '10.03.1987' and the same may be corrected to '10.03.1989'.

4. On 04.04.2006, the Principal of the school at Jeddah wrote a letter to the respondents No. 1 & 2 /CBSE mentioning *inter alia* that the appellant's parents had submitted an application for correction of his date of birth along with a copy of his latest passport and stated that necessary corrections be made in his Statement of Marks, Passing Certificate, Migration Certificate,

etc. On 04.05.2006, the respondents No. 1 & 2/CBSE replied to the said letter, declining the request made by the appellant's parents regarding correction of his date of birth.

5. On 27.05.2006, the appellant passed his matriculation examination and the certificate issued to him by the CBSE reflected his date of birth as '10.03.1987'. He also passed the 12th Class examinations in the year 2008 and the respondents no. 1 & 2/CBSE again recorded his date of birth in the Certificate issued to him as '10.03.1987'. The appellant returned to India in the year 2008 and took admission in Zakir Husain College in the Bachelor of Commerce Programme and he graduated from the said college in the year 2011.

6. It was only in the year 2013 that the appellant filed a writ petition for quashing the letter dated 04.05.2006, issued by the respondents No. 1 & 2/CBSE and for a correction of his date of birth in his School Leaving Certificate on the ground that he would get lesser opportunities to appear in several public examinations, including the Civil Services Examination and the Central Armed Forces (Assistant Commandants) Examination conducted by the UPSC.

7. By the impugned judgment, the learned Single Judge has dismissed the appellant's petition on the ground that it is hit by delay and laches. For arriving at the said conclusion, the learned Single Judge noticed the fact that it was the parents of the appellant who had got their son admitted in a school in Jeddah on 11.11.2003 and his date of birth in the school record was got recorded by them as 10.03.1987. Prior to the date when the appellant was admitted in a school at Jeddah, he had been issued a passport on 23.06.1999, which reflected his date of birth as '10.03.1987'. It was further observed that

the passport was issued in favour of the appellant on 23.06.1999, whereas the Birth certificate produced by his parents bears the date, 31.12.2003, which is much after the date of issuance of the passport.

8. In view of the inordinate delay on the part of the appellant/petitioner in seeking his remedy in the court of law, which remained unexplained, the learned Single Judge refused to grant him any relief. Besides the above, the court also observed that the Examination Bye-Laws of the respondents No. 1 & 2/CBSE were clear as Bye-Law 69.2 of the CBSE Examination Bye-Laws does not permit any change in the date of birth once it is recorded with the CBSE. Taking note of the judgment of a Division Bench of this Court in **LPA 738/2010**, entitled Bhagwat Dayal Vs. CBSE and Ors., decided on 24.01.2011 and relied upon by the learned counsel for the respondents No.1 & 2/CBSE, the learned Single Judge was of the opinion that the facts of the instant case were almost similar to the facts of the captioned case and therefore, declined to grant any relief to the appellant/petitioner. Aggrieved by the said decision, the present appeal has been filed.

9. Learned counsel for the appellant states that the appellant is not seeking any change in his date of birth for Bye-Law 69.2 of the CBSE Examination Bye-Laws to apply. Rather, he is seeking a correction in his date of birth in terms of Bye-Law 69.3 of the CBSE Examination Bye-Laws. The provision of Bye-Law 69.2 and 69.3 of the CBSE Examination Bye-Laws are reproduced here-in-below for ready reference : -

“69.2

Change in Date of Birth

No change in the date of birth once recorded in the Board's records shall be made.

69.3 (Correction in Date of Birth)

A. Correction as per the school records:

- i. *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 alongwith 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 alongwith the attested copy of the Certificate issued by the Municipal authority, if available, as proof of Date of Birth submitted at the time of seeking admission; and*
 - c) *the School Leave 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 along with documents mentioned in byelaws 69.2(iii) shall be entertained by the Board only within **Five Years of the date of declaration of result**. No correction whatsoever shall*

be made on application submitted after the said period of Five years.

- v. ***This rule will be applicable to all cases after Class X/XII 2015 examination onwards.”***

10. As can be seen on a perusal of the provisions of Bye-Law 69.3, corrections that are permitted to be made in the school record relate to typographical and other such errors so as to bring the certificate issued by the CBSE in line with the school records, on a condition that the correction in the school record should not have been made after the date of submission of the application form for admission to the examination of the Board.

11. In the instant case, the appellant had admittedly submitted his form for taking the Class-X Board examinations in January, 2006, whereas the request for correction in the school records was made thereafter. The school where the appellant was studying in Jeddah had forwarded a letter to the respondents No. 1 & 2 /CBSE much later, on 04.04.2006 asking for correction of the date of his birth, which had been turned down by the respondents No. 1 & 2/CBSE vide letter dated 04.05.2006. In such circumstances, we are of the opinion that, Bye-Law 69.3 of the CBSE Examination Bye-Laws cannot come to the aid of the appellant.

12. Even otherwise, there is no explanation coming forth from the learned counsel for the appellant as to the nature of documents that the parents of the appellant had submitted for issuance of a passport that mentioned the appellant's date of birth as '10.03.1987'. It is not in dispute that the passport was issued to the appellant on 23.06.1999 and no effort whatsoever was made by the parents of the appellant thereafter to seek a correction in the

said passport till February, 2006 on the ground that an error had crept therein.

13. For the aforesaid reason, we are of the opinion that the learned Single Judge cannot be faulted in observing that the writ petition filed by the appellant is squarely hit by the delay and laches. The appellant can not be permitted to sleep over his rights for such a prolonged period. It is also pertinent to note that the appellant had attained the age of majority in the year 2005. However, he did not seek legal recourse for a period spanning over 8 years thereafter. In the meantime, the appellant has already graduated and we are told that he is pursuing his Ph.D. in the Delhi University. Merely because the appellant has an apprehension that he would lose two precious years if he sits for any exam conducted by the UPSC, can hardly be a ground for this court to interfere with the impugned judgment. The appellant ought to have acted with promptitude if he desired a correction in his date of birth. The fact that no steps were taken either by the appellant's parents or by the appellant himself right from the year 1999, till the year 2013 shows that they were not serious about the matter.

14. In view of facts and circumstances of the present case, the impugned judgment is upheld and the present appeal is dismissed as meritless, with no order as to costs.

HIMA KOHLI, J

ASHA MENON, J

DECEMBER 05, 2019

pkb/s/ak