IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

FRIDAY, THE 11TH DAY OF DECEMBER 2020 / 20TH AGRAHAYANA, 1942

WP(C).No.22100 OF 2020(J)

PETITIONER:

PINKU S. NAIR
AGED 28 YEARS
S/O. SATHIKUMARAN NAIR, TC 8/1533(5), PADMASARAS,
KUNNUMPURAM, THIRUMALA P O,
THIRUVANANTHAPURAM - 695006.

BY ADVS.
SRI.M.R.RAJESH
SMT.E.S.SANDHYA

RESPONDENTS:

1 **THE CENTRAL BOARD OF SECONDARY EDUCATION**
SHIKSHA KENDRA, 2, COMMUNITY CENTRE, PREET VIHAR,
NEW DELHI - 110092, REPRESENTED BY THE CHAIRMAN.

2 **THE CONTROLLER OF EXAMINATIONS,**
CENTRAL BOARD OF SECONDARY EDUCATION,
NEW DELHI - 110001.

3 **CENTRAL BOARD OF SECONDARY EDUCATION**
REGIONAL OFFICE, NEW PLOT NO. 3(OLD PLOT NOL 1630A),
(J.BLOCK), ANNA NAGAR WEST, CHENNAI - 40, TAMILNADU,
REPRESENTED BY THE DEPUTY SECRETARY.

4 **THE PRINCIPAL**
KENDRIYA VIDHYALAYA, PANGODE, THIRUMAL P O,
THIRUVANANTHAPURAM, PIN - 695006.

R1-3 BY SRI.NIRMAL S., SC, CBSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The request made by the petitioner seeking to effect correction of the Date of Birth in the Class X certificate was forwarded to the 1st respondent by the 4th respondent. However, by Exhibit P6 communication, the same has been rejected. Challenging Exhibit P6 and seeking incidental reliefs, the petitioner is before this Court

2. The petitioner states that he was born on 08.12.1992 as is evident from Exhibit P1 Birth Certificate issued by the Registrar of Births and Deaths, Corporation of Thiruvananthapuram. The same date of birth has been entered in the Passport issued to the petitioner. He states that while seeking admission to the I Standard, the date of birth of the petitioner was erroneously noted as 18.12.1992 instead of 8.12.1992. The same date was erroneously carried over in the Transfer certificate and was entered in the admission register at the time of securing admission in the Kendriya Vidyalaya, Pangode. Petitioner states that the same mistake crept into the CSBE records and when the Grade Sheet cum Mark Sheet as the CBSE certificate were issued, the very same erroneous date has found a place therein as well. On noticing the error, the petitioner approached the 4th respondent and requested that the wrong entry be corrected. The 4th respondent forwarded the application with their recommendation to the first

respondent. However, despite all efforts made by the petitioner, the request for correction was rejected by Exhibit P6 communication. The petitioner in the said circumstances has approached this Court seeking for the following reliefs:

> i) Issue a writ in the nature of certiorari or any other appropriate writ direction or order calling for the records leading to the decision contained in Ext.P6 communication and quashing the same.
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> ii) Declare that the petitioner's Date of Birth is 8.12.1992 and that he is entitled to get the same corrected as per Exts.P1, in the School and the CBSE records of the petitioner and that there cannot be any time limit fixed for the same as per Clause 69.2(ii) of the Examination Bye-Laws of the CBSE;
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> iii) issue a writ in the nature of mandamus or any other appropriate writ direction or order commanding the respondents 1 to 3 to effect correction of the Date of Birth of the petitioner as per Exts.P1 in Exts.P4. P5 AISSE Certificate and other CBSE records, de hors the restrictions in Clause 69.2(i) and 69.2(iv) of the Examination Bye-laws of the CBSE.

3. The standing counsel appearing for the respondents 1 to 3 have filed a statement contending inter alia that as per the provisions of the bye-laws, brought in by notification dated 1.2.2018, no change in the date of birth once recorded in the Board's record can be made. According to the respondents, the corrections that could be carried out are only to correct typographical and other errors to make the certificates consistent with the

school records. The corrections sought by the petitioner does not fit in the category of typographical error and furthermore, the request has been made after a lapse of about several years.

4. I have considered the submissions advanced.

5. Insofar as the change of date of birth of the petitioner is concerned, a Division Bench of this Court in **Subin Mohammed. S Vs. Union of India and Ors.** [2016 (1) KLT 340], had occasion to observe that the entry of the date of birth in the statutory register raises a presumption of correctness and it prevails over an entry in the school register. The presumption, of course, is always rebuttable and it depends on the facts of each case. This Court had occasion to observe that the future prospects of a student is to study or get employment abroad will be substantially affected if the entry of date of birth in the mark sheet does not tally with that in the birth certificate. It was held that though a writ of mandamus cannot be issued in the strict sense, the failure to exercise jurisdiction may put the student in serious hardship. It was held by this Court that discretion will have to be exercised by this Court on grounds of public policy, public interest and public good.

6. Hence, in the light of the observations made by this Court in **Subin Mohammed** (supra), this writ petition is disposed of with the following directions:

a) The CBSE shall correct the entry as it concerns the date of

birth of the petitioner in Exhibits P4 and P5 and other CBSE records with reference to the birth certificate issued by the statutory authority if the request is found to be genuine.

b) The genuineness of the birth certificate can be ascertained from the respective local/statutory authority/Head of the institution or such other method, as the CBSE may deem fit.

c) The CBSE can demand in advance a consolidated fee, which shall include expenses for processing the application.

d) The petitioner shall pay a sum of Rs. 5000/- as cost to the CBSE within a period of one month.

Sd/-

RAJA VIJAYARAGHAVAN V

JUDGE

sru

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	A TRUE COPY OF THE BIRTH CERTIFICATE OF THE PETITIONER NO. B0020167-92121523767 DATED 24.05.2014 WITH BIRTH REGISTRATION NO.4303/1992 ISSUED BY THE REGISTRAR OF BIRTH AND DEATHS IN THE CORPORATION OF THIRUVANANTHAPURAM UNDER SEC. 17 OF REGISTRATION OF BIRTH AND DEATHS ACT 1969 R/W. RULE 13 REGISTRATION OF BIRTHS AND DEATHS RULES 1999.
EXHIBIT P2	A TRUE COPY OF THE BIRTH CARD OF THE PETITIONER WITH IP NO.6323 DATED 09.12.1992 ISSUED FROM THE SRI RAMAKRISHNA ASHRAMA CHARITABLE HOSPITAL, SASTHAMANGALAM,
EXHIBIT P3	A TRUE COPY OF THE PASSPORT OF THE PETITIONER WITH NO. M 0125538.
EXHIBIT P4	A TRUE COPY OF THE GRADE SHEET CUM MARKS STATEMENT OF THE PETITIONER WITH ROLL NO. 4144649 DATED 27.05.2008 ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P5	A TRUE COPY OF THE CBSE CERTIFICATE OF THE PETITIONER WITH ROL NO. 4144649 DATED 27.05.2008 ISSUE DBY THE 2ND RESPONDENT.
EXHIBIT P6	A TRUE COPY OF THE LETTER NO. CBSE/RO(M)/CORRN/2019/12318 DATED 18.06.2020 ISSUED BY THE 3RD RESPONDENT.

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE