

\$~20

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

+ W.P.(C) 10300/2019

VANDANA SONI

..... Petitioner

Through: Mr. Anant Agarwal, Adv.

versus

CENTRAL BOARD OF SECONDARY

EDUCATION AND ANR.

..... Respondent

Through: Mr. Ashok Kumar with Mr. Ujjwal
Goel, Advs. for R-1/CBSE.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

%

22.01.2020

1. The only prayer made by the petitioner is that the date of birth set out in her class-X certificate be corrected. According to the counsel for the petitioner, the petitioner's date of birth is 9.5.1997, whereas in her class-X certificate her date of birth is given as 7.5.1996.
2. The petition is resisted by the respondent no.1/CBSE on the ground that information supplied by the concerned school (i.e. respondent No.2) *via* the List of Candidates (LOC) portrays the petitioner's date of birth as 7.5.1996.
3. The petitioner, in turn, in support of her plea, has relied upon : her birth certificate; PAN card; Aadhaar card; passport; transfer certificate issued by the previous school; the application form for admission submitted to respondent No.2 school; the application submitted by the father of the petitioner to respondent No.2 school and a copy of the communication dated 29.7.2019 submitted by respondent No.2 to CBSE.

3.1 In all these documents, consistently, the petitioner's date of birth is given as 9.5.1997. Out of these documents, the document which carries, to my mind, the greatest weight is the application form submitted on behalf of the petitioner at the time of admission in respondent No.2 school. In that form, the date of birth of the petitioner has clearly been set out as 9.5.1997. This document has been attested by the Principal of respondent No.2 school.

4. Though notice was issued in this petition, both to respondent No.1/CBSE and respondent No.2/school, for some reason, there is no representation on behalf of respondent No.2 school.

5. That being noted, to my mind, the preponderance of probability is that the petitioner's version is correct. The petitioner's claim that her date of birth was wrongly communicated by respondent No.2 school to respondent No.1/CBSE while sending out the LOC appears to be correct.

6. Mr. Ashok Kumar, who appears for respondent No.1/CBSE, says that respondent no.1/CBSE in preparing the Class-X certificate relies upon the information given in the LOC.

7. While one cannot disagree with this submission of Mr. Ashok Kumar, the issue is not as to whether respondent no.1/CBSE made a mistake, what is to be ascertained as to whether respondent No.2 school failed to convey the correct date of birth of the petitioner. Obviously, based on the documents that I have referred to hereinabove, it appears that respondent No.2 school did make a mistake in setting out the date of birth of the petitioner in the LOC.

8. Counsel for respondent no.1/CBSE says that the relief sought for by the petitioner involves a change of her date of birth and thus, beyond the time fixed by extant bye-law. To my mind, this submission is not sustainable given the weight of the material produced by the petitioner. The petitioner's date of birth consistently is shown in all documents as 09.05.1997 except for her Class X certificate. The petitioner, in effect, seeks alignment of her date of birth with other documents. The mistake made by respondent no.2 school cannot be laid at the doorstep of the petitioner. Every correction involves alteration but every alteration cannot be construed as change, as in this case, where the petitioner seeks alignment of information pertaining to her date of birth in the Class X certificate with other documents in her possession.

9. Thus, for the foregoing reasons, the writ petition will have to be allowed.

10. The respondent no.1/CBSE will issue to the petitioner a Class X certificate with the correct date of birth (i.e. 09.05.1997) as per the extant bye-laws.

11. Furthermore, respondent no.1/CBSE will comply with the directions of this court as expeditiously as possible, though, not later than two weeks from the date of receipt of a copy of this order.

RAJIV SHAKDHER, J

JANUARY 22, 2020/pmc