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30.07.
2021
Ct. No.17

WPA 19826 of 2019

**Prasanta Kumar Saha
Vs
The State of West Bengal & Ors.**

**Mr. Prosenjit Mukhejee
.....For the Petitioner**

The prayer made in this writ application is for issuance of a Writ in the Nature of Mandamus Commanding the respondent nos. 1 and 3 to correct the date of birth of the petitioner recorded in the admit card.

Learned advocate for the petitioner fairly submits that in the school record the year of birth has been recorded as 1962. His case is that the school has wrongly recorded the date of birth. The petitioner passed the Madhyamik Examination in 1980 and the certificate of the said examination of the West Bengal Board of Secondary Education also shows that it has also been recorded there that his year of birth was 1962. He has filed this writ application on 30th September, 2019. Therefore, this writ application has been filed after 39 years from the year of examination. For last 39 years he knew that his recorded year of birth was 1962.

Now the petitioner claims that his year of birth is required to be corrected as 1966 instead of 1962

and his application to this effect has not been considered upto now by the West Bengal Board of Secondary Education. Learned advocate for the petitioner submits that mother of the petitioner has sworn in an affidavit stating that the year of birth of her son is 1966. Such affidavit cannot be an evidence as the affidavit affirmed by the mother in the year 2002 after 22 years from the creation of the record as to the date of birth is being used in the year 2019 and the affidavit naturally would speak in favour of the son of the deponent of the affidavit. Such statements cannot be accepted by a court without the cross-examination on it. This affidavit is not given any value in this proceeding as Writ Court is not the proper forum for adjudication on the said affidavit.

However, once year of birth has been recorded in the school record and certificate showing the year of birth was issued by the West Bengal Board of Secondary Education, the same cannot be changed after such a long period where the petitioner wants to be gained by such change. If such liberty is given to the persons for changing their dates of birth in such a manner, there will be no sanctity either of the school record or of the record maintained by the West Bengal Board of Secondary Education which is accepted as an important register as to the year of birth on the basis of which service period of a person, if he is in

service, is reckoned. Other government and non-government documents are also created on the basis of the date of birth of the School Leaving Certificate.

In the facts and circumstances, as aforesaid, I do not find any merit in this writ application and this writ application is dismissed.

A copy of this order should be sent by the office of the Registrar General to the office of the President of the West Bengal Board of Secondary Education as nobody appeared today for the West Bengal Board of Secondary Education.

The file of this case has not been sent to this court by the department. I have taken the help of copy of the writ application from the learned advocate for the petitioner and the petitioner is directed to file one complete copy of the writ application in course of the day in this court.

For not sending a file by the concerned department a litigant cannot wait when the justice delivery system of this country is being run by incurring huge expenditure.

Learned Registrar General of this Court is directed to look into the matter of not sending the file to this court as I have found that in a large number of other matters also, the files have not been sent to this court.

(Abhijit Gangopadhyay, J.)

