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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 121 of 2020**

{Arising out of order dated 09.12.2019 passed by the learned Single Judge in Writ Petition (C) No. 4478 of 2019}

- Rahul Kumar Thawait, S/o Shri Vijay Kumar Thawait, aged about 22 years, R/o Near Smriti Udyan, Ward No. 18, Opposite Arya Colony, Janjgir-Champa, P.S. City Kotwali, Janjgir-Champa, Chhattisgarh.

---- Appellant**Versus**

1. The State of Chhattisgarh, Through The Secretary, Chhattisgarh Board of Secondary Education, Raipur (C.G.)
2. The Secretary, Chhattisgarh State Open School, Raipur, Chhattisgarh Board of Secondary Education Campus, Pension Bada, Raipur (C.G.)

---- Respondents

For Appellant : Shri Sunil Kumar Soni, Advocate.
For Respondents No. 1 & 2: Shri Pankaj Agrawal, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge
Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

04.02.2021

1. Interference declined by the learned Single Judge to cause the date of birth, wrongly entered in the mark-sheet (Annexure A/1) of Class 10th of the Appellant holding that this is beyond the permissible time having crossed more than 3 years is put to challenge in this appeal.
2. The crux of the case of the Appellant is that, he appeared for the 10th class examination conducted by the 2nd Respondent in the academic

year 2011-12 and was issued Annexure A/1 mark-sheet where his date of birth was wrongly recorded as '31.07.1997' in place of '31.01.1997'. This is stated as because of the mistake on the part of the Authorities to the 2nd Respondent or the School Authorities and never due to any fault on the part of the Appellant as the date of birth has been correctly recorded in all the registers and proceedings as '31.01.1997'. In support of the said contention, the Appellant has also produced a copy of the mark-sheet of Class 12th of the academic session of 2013-14, where the 2nd Respondent has correctly mentioned the date of birth as '31.01.1997' as disclosed from Annexure A/2.

3. In the said circumstance, on coming across the mistake with regard to the date of birth in Annexure A/1 mark-sheet for the 10th Class, the writ Petitioner submitted Annexure A/3 representation on 27.06.2016, followed by Annexure A/4 representation dated 03.10.2019. The request was turned down by the 2nd Respondent as per Annexure A/5 dated 22.10.2019 for the reason that it was beyond the stipulated time. This made the writ Petitioner to file the Writ Petition (C) No. 4478 of 2019 with the following prayers:

“1. Hold that Action of the Respondent No. 2 Rejecting the Representation with Regard to Correction of Date of Birth as “31.01.1997” in Place of “31.07.1997” is Arbitrary & Capricious besides being Illegal.

2. That Impugned Order Dated 22.10.2019 Passed by Respondent No. 2 is liable to be Quashed being Arbitrary & Capricious.

3. That Matter may kindly be Remanded to the Respondent No. 2 to decide afresh the Petitioner's Application for Change of his Date of birth in the 10th Marksheet as “31.01.1997” in Place of “31.07.1997”.

4. That the entire Records of the case may kindly be called, for revealing gross and palpable injustice caused to the Petitioner.

5. Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the Petitioner together with cost of the Petition."

The prayer was opposed by the Respondents and after hearing, the learned Single Judge declined the interference and the writ petition was dismissed, which is under challenge in this appeal as mentioned above.

4. Shri Sunil Kumar Soni, the learned counsel appearing for the Appellant submits that miscarriage of justice has been resulted because of the interference declined by the learned Single Judge. It is pointed out that the factual aspects as to the status of the Appellant/writ Petitioner at the relevant time, being a 'Minor' was not analyzed or appreciated by the learned Single Judge though reference to such contention was taken note of in paragraph 3 of the judgment. The reliance sought to be placed by the Respondents on the Rules to prefer the application to correct the date of birth within 3 years is not applicable to the case in hand, as it is not with reference to any mistake on the part of the Appellant/writ Petitioner, but due to the mistake only occurred at the hands of the 2nd Respondent or the School Authorities; more so since in all the school registers and such other documents including the mark-sheet of the 12th Class, the date of birth has been correctly recorded as '31.01.1997'.
5. When the matter came up for consideration before this Court on 22.01.2021, we took note of the contentions raised from both the sides and perused the materials brought on record. It was accordingly observed that the mistake crept in the mark-sheet concerned by entering wrong date of birth was not attributable to the Appellant, whose date of birth stands recorded as '31.01.1997' in his mark-sheets of Class 5th, Class 8th and Class 12th; besides showing the same correctly in the

application for the examination of the Class 10th as well. Based on the submissions made by the learned counsel for the Respondents-Board, the matter was adjourned to this day.

6. When the matter is taken up for consideration today, Shri Pankaj Agrawal, the learned counsel appearing for the Respondents submits that the matter has been examined in detail, particularly, in the light of the order passed by this Court on 22.01.2021 and it has been decided to extend relief to the Appellant/writ Petitioner, subject to production of the documents mentioned in the Letter No. 871 dated 01.02.2021 issued by the 2nd Respondent. A full text of the said letter is extracted below for convenience of reference:

क्रमांक : 7415103040 छत्तीसगढ़ राज्य ओपन स्कूल, रायपुर छ.ग.वाध्यमिक शिक्षा मण्डल परिसर पैशन कक्षा रायपुर, 492001(छ.ग.) Website :- www.oscra.in Email :- cgaosraipur@gmail.com	Phone: 7415103040 CHHATTISGARH STATE OPEN SCHOOL RAIPUR
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क्रमांक / ..8.71. /ओपन स्कूल/अभिलेख/डुटि सुधार/2021 रायपुर, दिनांक - 01-02-2021

प्रति,

राहुल कुमार थवाईत,
 पिता श्री विजय कुमार थवाईत,
 स्मृति उद्यान, बार्ड नं 18,
 आर्या कालोनी के सामने,
 जांजगीर-बाँपा (छ.ग.)

विषय :- जन्मतिथि सुधार करने विषयक।

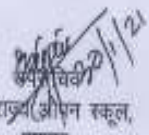
संदर्भ :- HIGH COURT OF CHHATTISGARH, BILASPUR Order Sheet WA No. 121 of 2020 Rahul Kumar Thawait Versus State Of Chhattisgarh and another.

उपरोक्त विषयांतर्गत संदर्भित पत्रानुसार लेख है कि हाईकोर्ट छ.ग. बिलासपुर के आदेशानुसार आपके हाईस्कूल अंकसूची में जन्मतिथि डुटि सुधार में संशोधन किया जाने हेतु आदेश प्राप्त हुआ है। उक्त आदेश के परिपालन में जन्मतिथि संशोधन हेतु पंचवी, आठवीं, हाईस्कूल एवं हायर सेकण्डरी की मूल अंकसूची कार्यालयीन समय में जमा करें ताकि जन्मतिथि डुटि सुधार संशोधन की कार्यवाही किया जा सके।

अतः सूचनाई आवश्यक कार्यवाही हेतु प्रेषित है।

संलग्न :- हाईकोर्ट आदेश की छायाप्रति।


 21/02/21


 छ.ग.राज्य ओपन स्कूल,
 रायपुर

7. Shri Sunil Kumar Soni, the learned counsel appearing for the Appellant submits that the Appellant is ready to produce the records before the competent authority.
8. Shri Pankaj Agrawal, the learned counsel appearing for the Respondents submits that the Appellant could appear with the documents as mentioned above before the Secretary or the Deputy Secretary of the Board on any day from 15.02.2021 till 19.02.2021 or on such other dates. After verification, necessary correction will be caused to be made in the relevant records and Annexure A/1 mark-sheet for the 10th Class and proper mark-sheet will be issued showing the correct date of birth as '31.01.1997'.
9. In view of the turn of events as above, we do not find it necessary to pass any further orders in this appeal, but for observing that the adverse observation made by the learned Single Judge against the Appellant/writ Petitioner will be of no consequence. It is further made clear that the question of law with regard to the eligibility to get the date of birth corrected with reference to the Rules sought to be relied on by the Respondents, in the case of "minor" student will stand left open.
10. The appeal stands disposed off accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge