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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.07.2021

PRONOUNCED ON : 28.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.9697 of 2020

J.Ganesan

...Petitioner

Vs

1. The Secretary to Government,
Backward Classes, Most Backward Classes
and Minorities Welfare Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. Mr.A.Karthik, I.A.S.,
The Secretary to Government,
Backward Classes, Most Backward Classes
and Minorities Welfare Department,
Secretariat, Fort St. George,
Chennai 600 009.
3. The Principal Commissioner,
The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
4. The Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai-600 006.
5. The Principal Secretary to Government,
Higher Education Department,
Secretariat,
Chennai 600 009.
6. The Agriculture Production Commissioner
and Principal Secretary to Government,
Secretariat, Fort St. George,
Chennai-600 009.



7. The Principal Secretary to Government,
Public Department,
Secretariat, Fort St. George,
Chennai-600 009.

8. The District Collector, Chennai No.62,
Rajaji Salai, Fourth Floor,
Chennai, Tamil Nadu 600 001.

9. The Director of Government Examination,
DPI Compound, College Road,
Nungambakkam, Chennai 600 006.

10. The Director of School Education,
DPT Compound, College Road,
Nungambakkam, Chennai 600 006.

11. The Commissioner of Corporation,
Greater Chennai, Rippon Building,
Chennai-600 003.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent pertaining to the impugned orders made in G.O.Ms.No.49 Backward classes, Most Backward classes and Minorities Welfare Department dated 31.08.2018 and to quash the same, consequently, direct the respondents to alter the petitioner's date of birth as recommended by the 8th respondent and grant notional increments and fix the pension accordingly.

For Petitioner : Mr.K.Elango

For R1 to R10 : Mr.K.Tippu Sulthan,
Government Counsel

For R11 : Mr.Raja Srinivas,
Standing Counsel

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2.The brief facts of the case are as follows:-

2.1. The petitioner herein, who was appointed as a Junior Assistant in the Panchayat Development Department on 03.07.1985, was subsequently promoted to various posts and ultimately held the post of Deputy Secretary in the Government of Tamil Nadu.



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2.2. The service records of the petitioner reflects his date of birth as 15.08.1960. However, the petitioner claims his actual date of birth to be as 15.08.1962 and by placing reliance on his birth certificate that was registered on 03.10.1962, the petitioner had made an application on 08.06.1990 to the first respondent herein, seeking rectification of his date of birth in the service records from '15.08.1960' to '15.08.1962'. The application was made within a period of five years from the date on which the petitioner had entered the Government Service.

2.3. The District Collector had conducted a detailed enquiry and after examining the witnesses, had submitted a report dated 17.10.1992, holding that the petitioner's actual date of birth is '15.08.1962' and not '15.08.1960'.

2.4. Pursuant to the report of the District Collector, the Commissioner of Revenue Administration had rendered his remarks on 08.12.1995, deviating with the findings in the report of the District Collector and suggesting that the petitioner's date of birth in the service record as '15.08.1960' was correct and the claim made by the petitioner is suspicious.

2.5. Consequently, the report was forwarded to the first respondent herein and through the impugned order dated 31.08.2018, the petitioner's request for alteration of his date of birth from 1960 to 1962, was rejected. Challenging the rejection order, the present writ petition has been filed.

3. Mr.K.Elango, learned counsel for the petitioner placed reliance on Rule 49 of the Tamil Nadu Subordinate Service Rules and submitted that the petitioner had made the application within a period of 5 years from his entry into the Government service on the strength of his birth certificate issued by the competent authority, which evidences the petitioner's date of birth was "15.08.1962". In this background, the learned counsel also placed reliance on the birth certificates issued to his siblings and by a comparative reference, pointed out that their certificates cannot by any manner, misused by the petitioner. It is also his submission that the District Collector had conducted an extensive enquiry and had relied on competent witnesses while coming to the conclusion that the petitioner's date of birth in the school record was erroneously mentioned as '15.08.1960' instead of '15.08.1962'. The learned counsel would submit that the report of the third respondent are on flimsy grounds, which are not based on any logical conclusion and since the original report of the Collector is based on evidences let in by competent witnesses and other material documents, the report of the Commissioner cannot be given any credence. He further submitted that the first respondent herein had not dealt with the findings of the District Collector and had simply concurred with the report of the third respondent without substantiating the facts of the case and hence requires to be set aside. In support of his contention, the learned counsel



placed reliance on the decisions of this Court in the case of M.T.Ganesh Moorthy Vs. State of Tamil Nadu and others passed in W.P.No.29669 of 2014, which came to be confirmed by the Hon'ble Division Bench of this Court in W.A.No.781 of 2019 dated 09.10.2020, laying the proposition that when the alteration of date of birth is based on reliable documents and there is no indication of an ulterior motive in the claim made for such alteration, the rejection for alteration of date of birth is improper. In another decision of a learned Single Judge of this Court in the case of S.Visalakshi Vs. The Commissioner of Chennai Corporation and others passed in W.P.No.268 of 2008, it was held that the authorities should give more importance to the public records than the School records.

4. Per contra, the learned Government Pleader, placed reliance on the averments in the counter affidavit and reiterated the remarks of the Commissioner of Revenue Administration, which indicates that the date of birth of the petitioner was not supported by convincing documents and that there were discrepancies in the petitioner's mother's name/father's name/ date of birth of the fourth child and that there was no possibility for the petitioner to have completed the S.S.L.C. Examination before attaining 15 years. The learned Government Pleader also placed reliance on the decisions in the case of R.Santhosh Kumar Vs. State of Tamil Nadu School Education Department and others passed in W.P.No.17792 of 2004, as well as in the case of S.Indumathi Vs.The Chief Secretary to Government, Secretariat, Chennai & Others passed in W.P.No.16510 of 2018, both of which judgments were relied upon by the first respondent in the impugned rejection order.

5. I have given careful consideration to the submissions made by the respective counsels.

6. The facts of the case reveals that the petitioner's date of birth in the birth certificate issued by the Corporation of Chennai, is '15.08.1962' and in view of the date of birth in his SSLC Certificate being recorded as '15.08.1960', the same came to be incorporated in his service records as 1960 instead of 1962. Though the District Collector, Chennai, in his enquiry report dated 17.10.1992, had recommended the petitioner's correct date of birth as 15.08.1962, the Commissioner of Revenue Administration had deferred from the recommendations of the District Collector, by pointing out certain infirmities in the enquiry report and observed that the claim of the petitioner for alteration of the date of birth is not feasible, which proposal was adopted by the Government in the impugned order dated 31.08.2018 and thereby the petitioner's claim was rejected.



7. Rule 49 of the Tamil Nadu State and Subordinate Services Rules deals with the procedure for alteration of the date of birth of a Government employee. The relevant portion of the Rule reads as follows:-

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"49. Alteration of date of birth --

(a) If, at the time of appointment, a candidate claims that his date of birth is different from that entered in his S.S.L.C. or Matriculation Register or School records, he shall make an application to the Tamil Nadu Public Service Commission in cases where the appointment is made in consultation with the Commission and in other cases to the appointing authority stating the evidence on which he relies and explaining how the mistake occurred. The application shall be forwarded to the Commissioner of Revenue Administration for report after investigation by an officer not below the rank of a Deputy Collector and, on receipt of the report, the Tamil Nadu Public Service Commission or the appointing authority, as the case may be, shall decide whether the alteration of date of birth may be permitted or the application may be rejected: Provided that in case of a candidate who was born outside the State of Tamil Nadu the investigation through the Commissioner of Revenue Administration shall be dispensed with and the Tamil Nadu Public Service Commission or the appointing authority, as the case may be, shall examine and scrutinize the records that may be produced by the candidate and shall decide whether the alteration of date of birth may be permitted or the application may be rejected.

(b) After a person has entered service, an application to alter the date of his birth as entered in the official records shall be entertained only if such an application is made within five years of such entry into service. Such an application shall be made to the authority competent to make an appointment to the post held by the applicant at the time of his application and shall be disposed of in accordance with the procedure laid down in sub-rule (a).

(c) Any application received after five years after entry into service or any application, which is not supported by entries in Secondary School Leaving Certificate, School, College or University records, birth extract from



records of local bodies or military discharge certificates, shall be summarily rejected."

8. As per the aforesaid Rule, a Government employee is required to make an application seeking for alteration of his date of birth within a period of five years from his date of entry into the service. In the present case, the petitioner had entered the service on 03.07.1985 and made the application seeking for alteration of the date of birth on 08.06.1990, which is within the prescribed period of five years. There is no dispute on this aspect.

9. The District Collector, Chennai, in his report dated 17.10.1992, had examined the parents of the petitioner and had recorded their statements that they got married on 29.09.1961 and six children were born to them out of their wedlock, in which the petitioner herein, is the first child. The District Collector had also recorded the statements of two other witnesses, who had ratified the marriage of the petitioner's parents and the date of birth of the petitioner as 15.08.1962. Apart from recording the evidences of the witnesses, the District Collector had also made a comparative verification of the birth certificate of the petitioner with the registers of the Chennai Corporation and had thereby come to the conclusion that there was no child born to the petitioner's parents in the year 1960 or 1961. Based on such records and the statements of the witnesses, he had opined that the date of birth of the petitioner was '15.08.1962' and not '15.08.1960'.

10. The Commissioner of Revenue Administration, in his report dated 08.12.1995, had however deviated from the report of the District Collector and had pointed out the following eight infirmities in the District Collector's proceedings. The following are such infirmities:-

a) There is no record for the petitioner's parents marriage held on 29.09.1961;

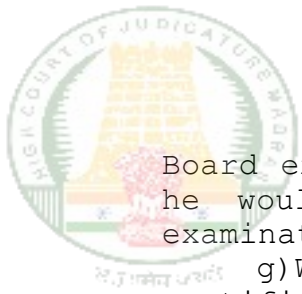
b) There is discrepancy in the statement of the witness regarding the marriage date of the petitioner's parents as 12.09.1961 instead of 29.09.1961;

c) The name of the petitioner's mother which was originally mentioned as Pushpa was subsequently altered as Mohana, which was rectified on 01.09.1989 only;

d) The name of the father in the birth certificate of the petitioner's siblings was referred to as Jayaraman, Jayarama Pillai and Jayarama Chettiar;

e) One of the sisters of the petitioner was born on 16.11.1969 and the brother thereafter born on 06.02.1972, have both been shown as the fourth child;

f) If the petitioner's date of birth was taken as 15.08.1962, he would have been 14 years 7 months as on the first date of the



Board examination for SSLC and since he was less than 15 years, he would not have qualified to appear for the SSLC final examinations;

g) While the petitioner's name is mentioned in his birth certificate, the names of his siblings are not mentioned in their birth certificates;

h) Though the petitioner's father had given an explanation that his illiterate wife wanted to admit the petitioner to the school at an early age, he had subsequently declared that the petitioner's date of birth in the SSLC Certificate as correct and would not seek for alteration at the later stage.

i) The authorities are empowered to reject the claim for alteration of the date of birth on the ground of suspicion.

11. Before dealing with the aforesaid doubts raised by the Commissioner of Revenue Administration, it would be appropriate to first address some relevant aspects touching on the facts of the case, in order to rule out the possibility of any mala-fide intention on the part of the petitioner in seeking for alteration of his date of birth.

12. The petitioner's parents had given birth to six children whose details are as follows:-

S.No.	Name of the Child	Male/Female	Date of Birth
1	J.Ganesan	Male	15.08.1962
2	J.Komala	Female	17.01.1965
3	J.Jothiramalingam	Male	16.07.1967
4	J.Kanchana	Female	16.11.1969
5	J.Ravichandran	Male	06.02.1972
6	J.Palanivel	Male	26.03.1975

A perusal of the aforesaid birth dates of the children of the petitioner's father, rules out the possibility of misuse of the birth of the male child that was born after the petitioner. While the petitioner is claimed to have born on 15.08.1962, the next male child was born only on 16.07.1967, in a gap of five years. In between them, there was a female child born on 17.01.1965. The District Collector in his proceedings had taken note of the evidences before him and on verification of the registers of the Chennai Corporation, had come to the conclusion that there were no children born to the petitioner's parents in the year 1960 or 1961. It is also stated that apart from the six children, no other child was born to the petitioner's parents which had died later. Thus, the possibility of misusing



the date of birth of any of the petitioner's siblings, as that of the petitioner, is ruled out.

13. Insofar as the reasons assigned by the Commissioner of Revenue Administration, in his proceedings dated 08.12.1995 is concerned, it requires to be mentioned that none of the nine reasons establishes that the report of the District Collector is false. The doubts raised therein, suggests a possible suspicion in the claim made by the petitioner. Insofar as the nine objections are concerned, the validity of such doubts does not gain any significance, since they do not over-rule the findings of the District Collector that was based on the records of the Public Authorities and other evidences, both oral and documentary.

14. The reasons assigned by the Commissioner of Revenue Administration in his report, dated 08.12.1995 are also not put effect which would invalidate the birth certificate issued in favour of the petitioner herein. Likewise, the minor errors of mentioning the fourth child as the fifth child or quoting the last name of the petitioner's father as wrong or referring to a correction made in the petitioner's mother's name, are flimsy reasons, which does not go to the root of the issue involved in the case, but seems to have been raised for the sake of raising a doubt. Such objections are not based on "intelligible differentia". Above all, such doubts which is claimed to be a suspicion, may not affect the validity of the birth certificate in any manner. Insofar as one of the doubts raised by the Commissioner of Revenue Administration relating to the claim that the petitioner could not have appeared for the SSLC examination since he would have been only 14 years and 7 months as on 01.03.1977 is concerned, there is no mandatory rule that a candidate appearing in the SSLC examination should not be less than 15 years. No doubt, the requirement for appearing in the SSLC examination is 15 years. The Government regulations, however permits a person to appear for the examinations after obtaining the necessary permission from the District Educational Officer, if he is lesser than 15 years by not more than two years and from the Chief Educational Officer, if he is lesser than 15 by more than 2 years at the time of taking the SSLC examination. In case, such a candidate does not obtain the permission at the time of taking the examination, these authorities are subsequently ratify this position. Thus, the prescription of 15 years as age, as a criteria to appear in the SSLC examination is not mandatory but only directory in nature. Incidentally, the petitioner herein, had produced the copy of the proceedings of the Directorate of Examination dated 22.08.1992, whereby ratification was issued in favour of the similarly placed candidate, who had not completed 15 years of age when he had taken the SSLC examination.

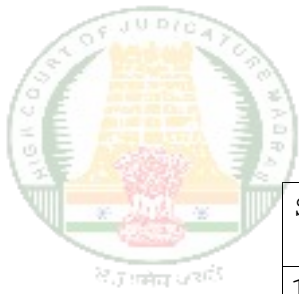


15. In one of the judgments of this Court in the case of S.Visalakshi Vs. The Commissioner of Chennai Corporation and others, passed through an order, dated 11.12.2009 in W.P.No.268 of 2008, the learned Judge had relied on another decision of this Court and held that the birth certificate issued by the Public Authority will have more evidentiary value than the School Certificate, especially, when the same has not been proved by the author of such certificate in the manner known to law. Thus, when the District Collector had relied upon the birth certificate, which was correspondingly verified by him from the official records of the Corporation and held that the petitioner was born in the year '1962' and not '1960', the remarks of the Commissioner of Revenue Administration which is based on assumptions and surmises, cannot be sustained.

16. In the case of M.T.Ganesh Moorthy Vs. State of Tamil Ndu, rep. by the Secretary to Government, Home (Police 1A), Department, Secretariat, Chennai and others passed in the order dated 23.04.2018 in W.P.No.29669 of 2014, in which alteration of the date of birth was also claimed on the basis of the birth certificate, this Court had held that when the alteration of date of birth is based on unimpeachable documents and when there is no immediate benefits to the claimant, the claim for alteration should be considered. The relevant portion of the order reads as follows:-

"9.1. The claim for alteration of date of birth has not been made either at the eve of promotion or at the fag end of retirement. The first application itself has been given even in the year 1996. The second application has been given in the year 2000. The first application has been dismissed in the year 1996 and the second application has been dismissed in the year 2006.

9.2. The claim of the petitioner is based on a document which is maintained in the regular course of official duty, namely, the birth certificate of the petitioner. Apart from that, the birth certificates of the other brothers and sisters of the petitioner have been filed. These birth certificates being documents relevant under Section 35 of the Evidence Act cannot be lightly brushed aside. The comparison of date of birth of the petitioner would furnish clue as to whether the claim would be genuine or not.



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S.No.	Name of the family member	Date of Birth	Date Registered
1	M.T.Palaniappan	08.05.1956	23.05.1956
2	M.T.Dhananchayan	29.07.1958	11.08.1958
3	M.T.Krishnamoorthy	25.11.1960	15.12.1960
4	M.T.Ganesan	10.10.1962	14.11.1962
5	M.T.Sumathi	15.12.1967	30.12.1967
6	M.T.Lathamaheswari	26.12.1969	02.02.1970

9.3. Perusal of these details as disclosed in the birth certificate would go to show that initially, there is a time gap of two years between the birth of one child to other child up to the birth of this petitioner and only thereafter, there is a time gap of five years between the birth of the petitioner and his sister. If really, the petitioner had to make use of time gap, he might have preferred to use a still later year as a year of birth in order to gain advantage in the service period. It is highly unrealistic to imagine that the petitioner might have utilized the gap of five years which existed between his birth and birth of his sister as the registration of the birth has been made even in the year 1962, when the petitioner was a small child. Therefore, when the correction is asked for based on unimpeachable documents, the authenticity of which cannot be doubted and when the claim is made at a time when there was apparently no immediate benefits, the claim ought to have been considered. The rejection of the claim based on no acceptable reasons is liable to be rejected.

10. It is relevant to quote the decision of the Apex Court with relevant observations regarding the circumstances under which the claim for alteration of date of birth should not be considered:

4. In U.P.MADHYAMIK SHIKSHA PARISHAD AND OTHERS Vs. RAJ KUMAR AGNIHOTRI (2006-2-L.W.182), the Supreme Court relying on its earlier decisions in STATE OF U.P. AND OTHERS Vs. GULAICHI (SMT), ((2003) 6 SCC 483), STATE OF



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UTTARANCHAL AND OTHERS Vs. PITAMBER DUTT SEMWAL (2002) 1 UPLBEC 441 SC, STATE OF T.N. Vs. T.V.VENUGOPALAN (1994) 6 SCC 302=1994 WRIT L.R.831=1995-1-L.W.13 S.N., EXECUTIVE ENGINEER, BHADRAK (R&B) DIVISION, ORISSA AND OTHERS Vs. RANGADHAR MALLIK, 1993 SUPP (1) SCC 763, GOVERNMENT OF ANDHRA PRADESH AND ANOTHER Vs. M.HAYAGREEV SARMA ((1990) 2 SCC 682), UNION OF INDIA Vs. HARNAM SINGH, ((1993) 2 SCC 162), BURN STANDARD CO. LTD. AND OTHERS Vs. DINABANDHU MAJUMDAR AND ANOTHER (AIR 1995 SC 1499) and THE SECRETARY & COMMISSIONER HOME DEPARTMENT & ORS Vs. R.KIRUBAKARAN, (JT 1993 (5) SC 404), had come to the conclusion that the correction in entries made in the Government records, on the basis of which the Government servant got the service, cannot be allowed to be changed just a few years before retirement or at the fag end of his service.

As pointed out already, it is not a claim made just few years before retirement or at the fag end of his service, though there is a delay on the part of the authorities to pass final orders.

11. Explaining the law applicable to the employees recruited through Tamil Nadu Public Service Commission, which is highlighted in the case of In THE SECRETARY & COMMISSIONER Vs. R.KIRUBAKARAN, (1994) Supp (1) SCC 155, the Supreme Court has held as follows:

"9. The Tamil Nadu Service Manual contains Rules 49 and 49-A, which are the provisions in respect of alteration and correction of the date of birth. Whenever any application is filed by persons governed by those service rules, procedures prescribed therein have to be strictly followed, including the time-limit prescribed for making such an application. Clause (b) of the aforesaid Rule 49 provides that after a person has entered in service, an application to alter the date of his birth as entered in the official records "shall be entertained only if such an application is made within five years of such entry in service...." It need not be pointed out that if an application is made for correction of the date of birth mentioned in the service records at an early date or within the time



prescribed, the authorities are in a much better position to verify the same. Normally, in most of the services, the date of birth is recorded in the service records on the eve of the appointment with reference to the date of birth mentioned in the Matriculation Certificate, Higher Secondary Education Board Certificate or any other certificate of similar nature produced by the applicant concerned at the time of making application for his appointment. As such whenever an application for alteration of the date of birth is made on the eve of superannuation or near about that time, the Court or the tribunal concerned should be more cautious because of the growing tendency amongst a section of public servants, to raise such a dispute, without explaining as to why this question was not raised earlier....."

This is a case where the petitioner herein has promptly raised the issue about two decades back and the authorities concerned have kept it pending for a long time, for which, the petitioner cannot be made liable.

12. Explaining the nature of evidence that should be looked into the reliability of the evidence adduced, the relative value of documents produced for the justification for correction of date of birth, the Supreme Court has held as under:

In STATE OF PUNJAB Vs. MOHINDER SINGH (2005) 3 SCC 702, the Supreme Court has held as follows:

11. Horoscope is a very weak piece of material to prove age of a person. In most cases, the maker of it may not be available to prove that it was made immediately after the birth. A heavy onus lies on the person who wants to press it into service to prove its authenticity. In fact, a horoscope to be treated as evidence in terms of Section 32 clause (5) must be proved to have been made by a person having special means of knowledge as regards authenticity of a date, time etc. mentioned therein. In that context horoscopes have been held to be inadmissible in proof of age. (see Ramnarain Kallia v. Monee Bibee, Biro v. Atma Ram and Satish Chandra Mukhopadhyaya v. Mohendra Lal Pathak.)



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12. On the contrary, the statement contained in the admission register of the school as to the age of an individual on information supplied to the school authorities by the father, guardian or a close relative is more authentic evidence under Section 32 clause (5) unless it is established by unimpeachable contrary material to show that it is inherently improbable. The time of one's birth relates to the commencement of one's relationship by blood and a statement therefore of one's age made by a person having special means of knowledge, relates to the existence of such relationship as that referred to in Section 32 clause (5).

13. As observed by this Court in Umesh Chandra v. State of Rajasthan ordinarily oral evidence can hardly be useful to determine the correct age of a person, and the question, therefore, would largely depend on the documents and the nature of their authenticity. Oral evidence may have utility if no documentary evidence is forthcoming. Even the horoscope cannot be reliable because it can be prepared at any time to suit the needs of a particular situation. Entries in the school register and admission form regarding date of birth constitute good proof of age. There is no legal requirement that the public or other official book should be kept only by a public officer and all that is required under Section 35 of the Evidence Act is that it should be regularly kept in discharge of official duty. In the instant case the entries in the school register were made ante litem motam."

If the facts of this case are scanned in the light of the dictum laid down, guidelines shown in the above decision, it is clear that the document relied upon (birth certificate) is ante litem motam maintained by the statutory authority, which is regularly kept in the discharge of official duty and it constitute good proof for date of birth. Therefore, when authentic document is relied upon to correct the date of birth, it should be entertained.

13. The next contention is that already a claim made has been dismissed in the suit in O.S.No.4283 of 2007 and hence, the writ petition is not maintainable. Admittedly, the suit filed praying for alteration of date of birth is



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dismissed. But, in case of a public servant, seeking alteration in the date of birth, the claim should have been filed only before the Administrative Tribunals. From the year 2004 onwards, the jurisdiction of the Administrative Tribunal has been transferred to the High Court and therefore, the writ jurisdiction is the appropriate remedy in case of the petitioner. The Judgment rendered in O.S.No.4283 of 2007 is without jurisdiction and therefore, it is a void decree, i.e. a decree is a non-existing one or not in existence at all. Therefore, the decree in the suit does not bar the jurisdiction of the writ court.

14. When a public servant discharging public functions, demand correction of date of birth in the Service Register, which is made neither at the fag end of the career nor in anticipation of any promotion and the claim is supported by impeccable public documents and the authenticity of which cannot be challenged, then, normally, the Court must be inclined to effect the correction. Therefore, the claim of the petitioner has to be accepted and the writ petition has to be allowed."

17. The aforesaid decision in M.T.Ganesh Moorthy's case (supra) came to be affirmed by the well considered decision of the Hon'ble Division Bench of this Court in its order, dated 09.10.2020 passed in W.A.No.781 of 2019. The relevant portion of the order reads as under:

"25. The certificate which was produced before the learned Single Judge and before us appears to be an extract of the entries made in the Register as early as 14.11.1962. As per the said procedure, birth or death was to be registered within one week from the date of birth or death. Therefore, we do not find any reasons to question the correctness of details of the birth certificate issued to the first respondent/writ petitioner under the provisions of the Registration of Birth and Death Act, 1969 read with Rule 8 of Tamil Nadu Birth and Death Registration Rules, 2000.

26. In such view of the matter, the Birth Certificate produced by the first respondent/writ petitioner in this case, to substantiate his date



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of birth, will outweigh any other documents furnished by him to prove his date of birth. In fact, along with the application for alteration of date of birth, the first respondent/writ petitioner has not only enclosed his birth certificate, but also produced the birth certificates of his brothers and sisters to show that the date of birth indicated in the birth certificate issued to him is probable and reliable. While so, we see no reason to disbelieve the birth certificate produced by the first respondent/writ petitioner to substantiate his date of birth.

27. Yet another submission of the learned Additional Advocate General appearing for the appellants is that the name of the first respondent/writ petitioner in his birth certificate is Ganesan, but what was indicated in his educational records is Ganesa Moorthy, and therefore also, the date of birth indicated in his birth certificate cannot be relied upon. We see no force in such submission of the learned Additional Advocate General. The difference in the name of the first respondent/writ petitioner given in the birth certificate as well as the other testimonials is not such that it would invalidate the Birth Certificate issued in favour of the first respondent/writ petitioner. In the Birth Certificate, the name of the first respondent/writ petitioner is mentioned as Ganesan, but in the educational testimonials it was Ganeshmoorthy. Such difference in the name of the first respondent/writ petitioner is probable, reasonable and common, particularly, when the names of the parents of the first respondent~writ petitioner are clearly mentioned in the Birth Certificate, and therefore, it will not be a ground for outright rejection of the Birth Certificate issued in favour.

...

32. In the present case, as held above, the application submitted by the first respondent/writ petitioner, on the strength of the Birth Certificate issued to him, within a period of five years from the date of his appointment on 16.12.1991 and it is in accordance with Rule 49 (b) of the said Rules. The word "such entry" mentioned in the relevant Rules,



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mean entry into a particular service. Therefore, such application can be entertained by the appellants and its rejection is not warranted especially when birth certificate produced by the first respondent/writ petitioner is not seriously disputed. The learned Single Judge also, in our opinion, rightly allowed the writ petition filed by the first respondent/writ petitioner, over which, we decline to interfere."

18. As laid down in the aforesaid decisions, the date of birth in the School Certificate of the petitioner has not been disputed by the respondents. Furthermore, the insignificant discrepancies pointed out by the Commissioner of Revenue Administration, is not to the effect which could invalidate the birth certificate issued by the Corporation. By applying the ratio laid down in the aforesaid decisions, the suspicions raised by the Commissioner of Revenue Administration, does not gain much relevance in order to overcome the well laid down findings of the District Collector.

19. In view of the above observations, I do not find any justification on the part of the Commissioner of Revenue Administration in having deviated from the District Collector's report dated 17.10.1992. The first respondent herein had also mechanically reiterated the objections raised by the Commissioner of Revenue Administration in his report, dated 08.12.1995 and passed the impugned Government Order. Apart from reiterating the discrepancies pointed out by the Commissioner of Revenue Administration, the first respondent had not rendered any other independent findings, in order to either over-rule the recommendations of the District Collector in his report dated 17.10.1992 or to substantiate that the petitioner's date of birth was '15.08.1960' and not '15.08.1962'. As such, the impugned order passed by the first respondent herein, cannot be sustained.

20. In the light of the aforesaid discussions and the legal propositions laid down by this Court in the judgments extracted in the preceding paragraphs, the impugned order passed by the first respondent in G.O.Ms.No.49, Backward classes, Most Backward Classes and Minorities Welfare Department dated 31.08.2018, is hereby quashed. Consequently, there shall be a direction to the respondents herein to alter the petitioner's date of birth in his service records from '15.08.1960' to '15.08.1962', within a period of two weeks from the date of receipt of a copy of this order and consequently extend all the service benefits arising from the amendment in the date of birth.



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21. The Writ Petition stands allowed accordingly. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Secretary to Government,
Backward Classes, Most Backward Classes
and Minorities Welfare Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Principal Commissioner,
The Commissioner for Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
3. The Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai-600 006.
4. The Principal Secretary to Government,
Higher Education Department,
Secretariat,
Chennai 600 009.
5. The Agriculture Production Commissioner
and Principal Secretary to Government,
Secretariat, Fort St. George,
Chennai-600 009.
6. The Principal Secretary to Government,
Public Department,
Secretariat, Fort St. George,
Chennai-600 009.
7. The District Collector, Chennai No.62,
Rajaji Salai, Fourth Floor,
Chennai, Tamil Nadu 600 001.
8. The Director of Government Examination,
DPI Compound, College Road,
Nungambakkam, Chennai 600 006.
9. The Director of School Education,
DPT Compound, College Road,
Nungambakkam, Chennai 600 006.



10.The Commissioner of Corporation,
Greater Chennai, Rippon Building,
Chennai-600 003.

+1cc to Mr.K.Elango, Advocate, S.R.No.36630

+1cc to Mr.B.Manimegalai, Advocate, S.R.No.36188

W.P.No.9697 of 2020

NK(CO)
HS(11/08/2021)