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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23021 of 2019

And

W.M.P.No.22698 of 2019

J.Elankumaran

... Petitioner

Vs.

1.Director of School Education,
DPI Campus,
Nungampakkam,
Chennai - 600 006.

2.Chief Educational Officer,
O/o. Chief Educational Office,
Manjakuppam,
Cuddalore.

3.District Educational Officer
O/o. District Educational Office,
Manjakuppam,
Cuddalore.

4.The Head Master
Devangudi Gopalakrishna,
Mazhavarayar Higher Secondary School,
Sethiyathope,
Bhuvanagiri Taluk,
Cuddalore District 608 702.

... Respondents

Prayer :

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining the order passed by the 1st Respondent vide Na.ka.No. 008647/M/E3/2018 dated 03.05.2018 and consequently directing the 1st respondent to alter the date of birth of the petitioner as 02.11.1981 instead of 14.05.1980 in the X and XII Mark Statements issued to the petitioner by the 1st Respondent.



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For Petitioner : Mr.G.Pugazhenth

For Respondents : Mr.Stalin Abimanyu for R1 to R3
Additional Government Pleader
No Appearance for R4

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records pertaining the order passed by the first Respondent vide Na.ka.No. 008647/M/E3/ 2018 dated 03.05.2018 and to consequently directing the first respondent to alter the date of birth of the petitioner as 02.11.1981 instead of 14.05.1980 in the X and XII Mark Statements issued to the petitioner by the first Respondent.

2.The case of the petitioner is that he completed X Standard in the examination held during March, 1995 at Devangudi Gopalakrishna Mazhavarayar Higher Secondary School, Sethiyathope, Cuddalore District and he completed his Higher Secondary Education in the said School during the academic year 1995 - 1997. Thereafter he completed B.E. (Electrical and Electronics Engineering) during 1997 - 2001 at Dr.Navalar Nedunchezhiyan College of Engineering, Toludur, Cuddalore District. His date of birth was mentioned as 14.05.1980 in all School records. Thereafter, the petitioner came to know that his date of birth was 02.11.1981.

3.The further case of the petitioner is that he filed a suit for Declaration and Mandatory Injunction before the District Munsif Court at Chidambaram to declare that his date of birth is 02.11.1981 in O.S.No.350 of 2008 and the said suit was decreed in his favour on 24.06.2009. Thereafter, the petitioner made representation to the first respondent seeking change of date of birth in the X and XII Standard Mark Statements, however, vide impugned order, his request was rejected by the first respondent. Hence, this writ petition.

4.The learned counsel appearing for the petitioner would submit that the petitioner filed a suit for Declaration and Mandatory Injunction before the District Munsif Court at Chidambaram to declare that his date of birth is 02.11.1981 in O.S.No.350 of 2008 and the said suit was decreed in his favour on 24.06.2009, however, the first respondent did not take any action to implement the judgment and decree, which is non est in law.

5.The learned Additional Government Pleader would submit that the petitioner ought to have filed execution petition in the said suit and instead of doing so has filed this writ petition, which is not sustainable one.



6.The petitioner claim that he filed a suit for Declaration and Mandatory Injunction before the District Munsif Court at Chidambaram to declare that his date of birth is 02.11.1981 in O.S.No.350 of 2008 and the said suit was decreed in his favour on 24.06.2009. There is a procedure available in the Civil Procedure Code for implementing the judgment and decree and without exhausting the said remedy before the competent Civil Court, filing writ petition is not sustainable. There is no statutory or constitutional violation. Hence, this Court is not inclined to grant the relief sought for by the petitioner in this writ petition.

7.The writ petition is accordingly dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1.The Director of School Education,
DPI Campus, Nungampakkam,
Chennai - 600 006.

2.The Chief Educational Officer,
O/o. Chief Educational Office,
Manjakuppam, Cuddalore.

3.The District Educational Officer
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4.The Head Master
Devangudi Gopalakrishna,
Mazhavarayar Higher Secondary School,
Sethiyathope,
Bhuvanagiri Taluk,Cuddalore District 608 702.

+1cc to Mr.G.Pugazhenth, Advocate SR.No.64559

+1cc to Government Pleader SR.No.64390

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VG II(CO)

GMV(20/01/2022)