

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.26378 of 2018
DATE OF DECISION : 22.03.2021

Amit Kumar

.....Petitioner

versus

Punjab School Education Board & Ors.

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Subhash Kumar, Advocate for the petitioner

Mr. Eklavya Kumar, Advocate for respondent No.1

ALKA SARIN, J.:

Heard through video conferencing.

The present civil writ petition has been filed challenging the order/letter dated 20.03.2018 (Annexure P-9) whereby the petitioner's request for change in his date of birth in school certificates has been rejected and the fee deposited by him for this purpose has been forfeited.

The grievance of the petitioner is that though the birth certificate of the petitioner (Annexure P-1) records his date of birth as 22.09.1987, the middle and matriculation certificates issued by respondent No.1 (Annexures P-2 and P-3) record his date of birth as 22.09.1983. It is contended that in 2017 the petitioner discovered that his date of birth was wrongly mentioned as 22.09.1983 in the certificates Annexures P-2 and P-

3. The petitioner approached his school with his birth certificate Annexure P-1 and on that basis the correction in his date of birth was carried out by the school in its Admission and Withdrawal Register (Annexure P-4) and his date of birth therein was corrected from 22.09.1983 to 22.09.1987. The school vide an undated letter (Annexure P-5) also recommended to the respondents for correcting the date of birth of the petitioner. Thereafter, the petitioner deposited the fee of Rs.12,700/- with respondent No.2 and submitted an application (Annexure P-7) for the respondents to correct his date of birth. Vide letter dated 29.10.2018 (Annexure P-8) respondent No.2 got the original birth certificate of the petitioner verified and sent it to respondent No.1 for further action. Vide impugned order/letter dated 20.03.2018 (Annexure P-9) respondent No.1 rejected the petitioner's request for change in his date of birth in school certificates from 22.09.1983 (incorrectly typed as 22.09.1993 in the order/letter) to 22.09.1987. In the impugned order/letter (Annexure P-9) it was mentioned that as per the Rules, the age for taking the middle exams is required to be 12 years by 31st December of the year and if the date of birth is corrected then the petitioner's age at that time would be around 9 years and, therefore, as per Order No.279 dated 19.01.2018 of Deputy Director (Schools) the case of the petitioner stood rejected. It was also mentioned that as per the Rules, the fees could not be refunded.

Learned counsel for the petitioner has contended that the impugned order/letter (Annexure P-9) is illegal and arbitrary in as much as since the birth certificate (Annexure P-1) of the petitioner recorded his date of birth as 22.09.1987, the respondents ought to have accepted the petitioner's request for change in his date of birth. He has further

contended that respondent No.1 had itself vide notification dated 29.08.2017 (Annexure P-10) allowed a golden chance to candidates for getting their date of birth corrected and that the case of the petitioner was covered by the said notification. Counsel for the petitioner has also argued that when his school had carried out the correction in his date of birth in the school records vide Annexure P-4, there was no reason for respondent No.1 not to carry out similar corrections in the certificates (Annexures P-2 and P-3).

Notice of motion was issued. Respondent No.1 has filed a reply dated 30.05.2019 taking the plea that as per the Middle Standard Examination Regulations of Calendar Volume II, 2002 Clause 7(2), for getting admission in Class of middle standard upto 31st December, the age must be 12 years and in case the correction in date of birth of the petitioner is done then his age at the time of admission in middle standard becomes 9 years and, therefore, the correction was not done.

I have heard the learned counsel for the petitioner and respondent No.1 and with their assistance have gone through the contents of the file.

A middle standard certificate is issued on passing Class 8 and a matriculation certificate is issued on passing Class 10. The petitioner passed Class 8 in 1997 as per middle certificate Annexure P-2 and Class 10 in 1999 as per matriculation certificate Annexure P-3. In both these certificates his date of birth mentioned is 22.09.1983, though the petitioner contends that his date of birth is 22.09.1987 as per certificate Annexure P-1. A child usually entering school at the age of 5/6 years in Class KG and, without losing a year, would be 12/13 years old by the time he reaches

Class 8 and 14/15 years old by the time he reaches Class 10. This age tallies with the age of the petitioner in Class 8 and Class 10 if his date of birth is taken as 22.09.1983 as mentioned in the certificates Annexures P-2 and P-3. However, if the date of birth of the petitioner was 22.09.1987, as alleged, he would be only 10 years old in 1997 when he took the middle examination and 12 years old when he took the matriculation examination. This would be a fantastic achievement. However, as per the Regulations relied upon by respondent No.1, for getting admission in Class of middle standard upto 31st December, the age must be 12 years. Clearly the petitioner would not qualify to sit for the middle examination in 1997 if his date of birth was 22.09.1987.

The petitioner completed his Class 8 and Class 10 in 1997 and 1999 when the records of his school mention his date of birth as 22.09.1983. Till 2017 he knew that his certificates Annexures P-2 and P-3 mention his date of birth as 22.09.1983. For almost eighteen long years the petitioner took no steps to get his date of birth corrected. There is no allegation that his birth certificate Annexure P-1 was supplied to the school when he took admission and that the error in recording his date of birth crept in at the school. During this period of eighteen years the petitioner attained majority – in 2001 if his date of birth is 22.09.1983 and in 2005 if his date of birth is 22.09.1987. On attaining majority, he took no steps to get his date of birth corrected. The petitioner is thus estopped from claiming a change in his date of birth and such a claim made in 2017 would also be time-barred. In this regard, in a decision by a Division Bench of this Court in the case of '**Ambika Kaul vs. Central Board of Secondary Education & Ors.**' [2015(2) RSJ 606] it was *inter-alia* held as under:

“34. The plea of estoppel has been extended in numerous cases, in respect of the date of birth in this court as well. One of the cases is reported as Amit Chillar v. State of Haryana and another, 2008(4) SCT 329 : 2008(6) SLR 236, wherein a Division Bench of this Court applied the principle of estoppel, as extended by the Hon'ble Supreme Court in C. Rama Swamy's case (supra). The Court held to the following effect:-

“8. The arguments of learned counsel for the petitioner that the certificate issued by the Registrar, Births and Death must prevail over the matriculation certificate issued by the Board or the University for the purposes of date of birth has also not impressed us because the petitioner himself has declared his date of birth in the application form to be 17.2.1986. He has, however, later on placed reliance on the certificate issued by the Registrar, Births and Deaths showing his date of birth to be 27.2.1985. The certificate of matriculation has been issued to the petitioner long time ago. But no effort was made by the petitioner to get it corrected in accordance with the certificate of the Registrar, Births and Deaths. The petitioner cannot be permitted to carry two certificates and claiming two different dates of births, which could be used

on different occasions as per his convenience.

Such a course would result into iniquitous result and the Courts cannot approve such a conduct.

Therefore, the principle estoppel would fully apply to the facts of the present case as has been held by Hon'ble Supreme Court in Union of India v. C. Rama Swamy, (1997)4 SCC 647."

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42. The fact is that every person grows with the date of birth as mentioned in the matriculation certificate. He is aware of such date of birth. Giving allowance of minority will lead to uncertainties and inconsistencies in the records of public authorities. Therefore, though a person is estopped to dispute the date of birth entry recorded in the matriculation certificate, but even if he approaches the Civil Court to seek exclusion of the minority period in terms of Section 6 of the Limitation Act, 1963, such suit cannot be entertained after three years from his alleged date of attaining the age of majority. In no case, the date of birth recorded in the matriculation certificate should be corrected after three years of attaining majority on the basis of date of birth in the birth certificate.

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45. The right to seek actual date of birth has to be exercised within three years of attaining the majority on the basis of the birth certificate issued by the Registrar of Births

and Deaths. But, after expiry of period of three years from the cessation of disability, no person can rely upon the birth certificate. He is bound by the date given in the matriculation certificate. Therefore, in any case, the right of a person to seek actual date of birth on the basis of entry in the birth certificate by the Registrar of Births and Deaths is three years after attaining the majority on the basis of date of birth in the said certificate.”

Thus, the reliance by the petitioner on his date of birth certificate (Annexure P-1) and the correction carried out by the school in the Admission and Withdrawal Register (Annexure P-4) for changing his date of birth in the certificates Annexures P-2 and P-3 cannot be accepted.

No other arguments on any other points have been addressed.

In view of the above, the present civil writ petition is devoid of any merit and is dismissed.

Dismissed.

(ALKA SARIN)
JUDGE

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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
