

\$~10

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 4th February, 2021

+ **W.P.(C) 5658/2020**

MS TANYA AGARWAL Petitioner
Through: Mr. Chaitanya K. Aggarwal,
Advocate (M- 9810988555)

versus

THE PASSPORT OFFICER & ORS. Respondents
Through: Mr. Rishabh Sahu, Advocate for R-1,
2 and 4.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J(Oral)

1. This hearing has been done through video conferencing.
2. The Petitioner in the present case was born in the Military Hospital, Jalandhar Cantt., on 27th October, 1994. However, for unknown reasons, the Chief Registrar, Births and Deaths, Punjab, Chandigarh had recorded her date of birth as 17th December, 1994, in her birth certificate. The passport of the Petitioner was accordingly issued with the date of birth recorded as 17th December, 1994, though, it is the case of the Petitioner that in all her other documents, the correct date of birth is recorded as 27th October, 1994.
3. The passport of the Petitioner was issued to her way back in 2005, when she was a minor. However, since the Petitioner never required to travel abroad, no attempt was made by her to get the date of birth corrected.
4. In June, 2020, Petitioner was refused permission to appear in an examination for studies abroad, due to a mismatch in the date of birth in her passport and other documents, which is when she realised that the date of birth in her passport needs to be corrected. She then requested the Regional

Passport Office, Bhikaji Cama Place, Hudco Trikoot-S, R. K. Puram, New Delhi-110066 (*hereinafter 'Passport Office'*), repeatedly, to correct the date of birth on her passport and also made attempts to get her birth certificate corrected. However, the said request and representations were to no avail and therefore, she filed the present petition seeking amendment to date of birth in her passport.

5. The counter affidavit has been filed on behalf of the Passport Office wherein, it is clearly verified by the Military Hospital, Jalandhar Cantt., that her date of birth is 27th October, 1994. The relevant extract of the counter affidavit is set out below:

“xxx

4. *That it is submitted that a Reply dated 31.08.2020 from the Office of the Cantonment Board, Jalandhar Cantt. has been received wherein it is stated that entry made in the certificate i.e. entry of date of birth as 17th December, 1994, with registration date 30.12.1994 bearing Reg. No.1701 is in order as per their record. On the other hand, reply dated 12.08.2020 from the Military Hospital has also been received which confirm the date of birth of the applicant as 27.10.1994.”*

6. The impediment that the Passport Office is stated to be facing is that whenever there is a change of date of birth to be implemented, it requires a physical verification of the cancelled birth certificate and an inspection of the fresh birth certificate by the issuing authority in terms of Chapter 3, Clause 6.3(b) of the Compendium of Instructions/Guidelines Relating to Issue of Passports in India/Abroad (*hereinafter 'Guidelines'*).

7. Mr. Aggarwal, Id. counsel for the Petitioner submits that the date of

birth has been clearly verified by the Military Hospital, Jalandhar Cantt. and therefore, the Passport Office ought to be directed to amend the same.

8. Mr. Sahu, Id. counsel appearing for the Military Hospital, Jalandhar Cantt., as also for the Passport Office, submits that the confirmation has been received from the said hospital about the date of birth.

9. As per circular bearing No. VI/401/2/5/2001, dated 26th November, 2015, issued by the Ministry of External Affairs, relied upon by the Petitioner, upon attaining majority, the date of birth can be amended. The relevant guideline reads:

(i) If an applicant applies for the change of date of birth in the passport within a reasonable period of time i.e. within a span of five (5) years from the date of issue of passport having the alleged wrong date of birth, with the birth certificate issued by the Registrar of Births & Deaths stating that the date of birth recorded in the passport was based on the entries mentioned documents other than the Birth Certificate, the request of such an applicant irrespective of the difference in the dates of birth, may be considered by the Passport Issuing Authority. However, before the issuance of passport with changed date of birth, the Passport Authority shall also levy appropriate penalty on the applicant for obtaining passport on previous occasion by providing wrong information regarding his/her date of birth.

(iii) The cases where the applicant comes to PIA for change/correction with regard to date of birth in the Passport after a period of five years from the date of issue of passport with alleged wrong date of birth, no such request shall be entertained/accepted by the PIA and be rejected out rightly.

However, an exemption in this regard may be given to an applicant who was minor at the time

when passport with alleged wrong date of birth was issued to him. As and when such an applicant after attaining the age of majority applies for the passport with the request to change the date of birth in the passport issued to him when he was minor, the PIA irrespective of the duration of the issuance of passport may accept his case for consideration and if is satisfied with the claim and document(s) submitted by the applicant, may accept his request for change of date of birth in the passport without imposition of any penalty.

(iv) In no way, the Passport Authority will relegate the applicant to obtain the declaratory court order to carry out changes with regard to date of birth in the passport, as the Passport Authority subject to the condition that the case has been submitted by the applicant within the stipulated limit of 5 years from the date of issuance of passport (except the cases of minor passport holder as detailed in para 5(ii) above) would now be eligible to accept the genuine cases irrespective of the difference of dates of birth.

10. This is a peculiar case where the date of birth in the birth certificate issued by the Chief Registrar, Births and Deaths, Punjab, Chandigarh does not match the date of birth given in the birth certificate issued by the Military Hospital, Jalandhar Cantt.

11. Clearly, the Petitioner could have gotten the date of birth changed in the past years but she was a minor at that time and only now is she planning to pursue her education abroad. Hence, she has sought rectification in the date of birth in her passport. Considering the fact that the Military Hospital has confirmed her date of birth to be 27th October, 1994, the Passport Office

is directed to carry out the correction in her passport and amend the same to 27th October, 1994.

12. Parallely, however, the Registrar of Birth and Deaths of Punjab, both in Jalandhar and Chandigarh, are directed to cancel the earlier birth certificate of the Petitioner and issue a fresh birth certificate, reflecting the correct date of birth i.e., 27th October, 1994. The said exercise shall be carried out within a period of 60 days, upon the service of the present order.

13. Upon the old birth certificate being cancelled, and the fresh certificate being issued, the intimation of the same shall be given by the Petitioner to the Passport Office, who shall then carry out the verification in terms of their Guidelines.

14. The amended passport be issued to the Petitioner within a period of two weeks without awaiting the verification. The verification can be carried out post the issuance of the corrected passport, after the 60 days period expires. The Petitioner shall ensure that the present order is served upon the Registrar of Births and Deaths, Jalandhar and at Chandigarh, to enable compliance.

15. This order is being passed in the facts and circumstances of the present case. No further orders are called for. The present petition is disposed of. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 4, 2021

Rahul/Sp