

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21001 of 2021

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Sony Kumari D/o Shyam Kishore Pandey, Mother- Arti Devi, Resident of
Village- Naraina, P.S. Chenari, District- Rohtas.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Human Resources Development Department, Government of India, New Delhi.
2. The Chairman, Central Board of Secondary Education, New Delhi.
3. The Secretary of Central Board of Secondary Examination, Regional Office, Allahabad.
4. The Commandant, 36 Batalian, Central Reserve Police Force, Khonsa District - Tirap(Arunachal Pradesh),.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jay Prakash Singh, Adv.
For the Respondent/s	:	Mr.Dr. K.N. Singh (Asg),
For Respondent no. 2 & 3 :		Mr. Vinay Krishna Tripathy,

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 21-06-2022 The matter comes up after notice.

Considering the nature of the case, the same is being
decided at the admission stage.

The petitioner has submitted that she is the daughter
of Ex-Constable, who was missing from duty since 05.08.1995
from 36 Battallion, CRPF. Her date of birth have been recorded
in the certificate as 21.12.1997, whereas she claims her date of
birth as 21.12.1994.

The petitioner submitted an application for correction
of the Date of Birth, more so as her father went missing on
05.08.1995 and she could not have been, therefore, born on



21.12.1997. It is her case that her representation for correction of Date of birth was rejected vide order dated 15.05.2018 on the ground that the same was time barred as per examination bye-laws. She had earlier approached this Court by preferring C.W.J.C. No. 23502 of 2018 which came to be decided on 22.02.2019, remanding the matter back to the respondent no.2 for redressal of her grievances. Again the same has been rejected on 19.06.2019.

Learned counsel for the C.B.S.E. submits that as per the Rules an examination bye-laws, the application for correction of date of birth has to be submitted within five years and no correction whatsoever shall be made on the application submitted after the said period of five years.

In the opinion of this Court, such a plea cannot be raised in the present petition as earlier this Court has already directed the respondents to redress the grievances. Meaning thereby, the delay in filing the application for correction stood condoned. Otherwise, this Court would have rejected the request of the petitioner at that stage only. The respondents, therefore, could not have rejected her application again while passing the order dated 19.06.2019 on the specific plea of delay. The order dated 19th June, 2019, therefore, cannot be sustained in law.



Even, otherwise, the examination bye-laws has issued by the C.B.S.E. have been held to be directly in nature by the Hon'ble Apex Court in the case of **Jigya Yadav Vrs. The C.B.S.C. & Ors., (2021) 7 SCC, 535.**

From perusal of the order dated 19th June, 2019, it is apparent that the petitioner had submitted application alongwith cogent and relevant documents which reflect that she was born on 21.12.1994. These documents are State Government Office documents of Gram Panchayat Secretary School, Naraina, Education Department and also there is an affidavit of mother of the petitioner.

In the circumstances, therefore, the respondents are directed to re-visit the application moved by the petitioner and pass suitable orders within a period of two months henceforth. The order dated 19th June, 2019 rejecting the application of the petitioner on the ground of delay is quashed and set aside with aforesaid directions.

The writ petition stands allowed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-
Item No. 65

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