

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1429 of 2018

Arising Out of PS. Case No.-163 Year-2017 Thana- MATIHANI District- Begusarai

Keshav Kumar @ Gulshan Gautam @ Gulshan Kumar @ Gautam Kumar
Son of Ram Binod Singh @ Vinod Singh R/o Village-Ramdiri Nakti Tola,
P.S.- Matihani, District-Begusari under the guardianship of his mother Vibha
Devi, W/o Ram Binod Singh @ Vinod Singh, R/o village-Ramdiri Nakti Tola,
P.S.-Matihani, District-Begusarai.

... .. Petitioner

Versus

1. The State of Bihar
2. Abhay Kumar S/o Late Munna Singh R/v-Ramdiri Ramnagar, P.S-Matihani,
District-Begusarai.

... .. Respondents

Appearance :

For the Petitioner	:	Mr.Surendra Kishore Thakur, Advocate
For the Respondents	:	Mr.Abhay Kumar, APP
For the O.P. No.2	:	Mr. Shashank Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 27-06-2022 Heard Mr. Surendra Kishore Thakur, learned counsel
for the petitioner, Mr. Shashank Shekhar, learned counsel for the
opposite party no. 2 and Mr. Abhay Kumar, learned A.P.P. for
the State.

Petitioner, in the present case, is aggrieved by and
dissatisfied with the judgment/order dated 04.09.2018 passed by
the learned Principal Magistrate, Juvenile Justice Board,
Begusarai in connection with J.J.B. Case No. 74/2018, G.R. No.
3740/2017 arising out of Matihani P.S. Case No. 163 of 2017
whereby and whereunder the Principal Magistrate, Juvenile
Justice Board, Begusarai has declared the petitioner as major



differing with the opinion of the other Member, Juvenile Justice Board and also without considering that as per the matriculation certificate the petitioner is minor, the petitioner further prays for quashing of the judgment dated 02.11.2018 passed by the learned Additional Sessions Judge – 1st, Begusarai in Criminal Appeal No. 87/2018 whereby and whereunder the learned Additional Sessions Judge – 1st, Begusarai has also dismissed the appeal holding that the petitioner is major.

Learned counsel for the petitioner submits that by the impugned judgment the learned Special Judge, Children Court has refused to interfere with the impugned order of the learned Principal Magistrate, Juvenile Justice Board, Begusarai. It is his submission that while conducting the inquiry for age determination of the petitioner in terms of Section 94(2)(i) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the “Act of 2015”), the learned Principal Magistrate took into consideration the school admission register of the primary school in which the petitioner was admitted and at the time of admission his date of birth was shown as 25.11.1998.

It is submitted that the petitioner passed his matriculation examination from the Bihar School Examination



Board in which his date of birth is mentioned as 10.05.2001 but this document was disputed by the opposite party no. 2. In course of inquiry, the Incharge Principal of the concerned primary school appeared before the Juvenile Justice Board and produced the admission register in which at serial no. 85 the name of the petitioner has been mentioned showing his date of birth as 25.11.1998. This was marked as Exhibit 'B'. The learned Principal Magistrate refused to accept the contention made on behalf of the petitioner that the said entry is forged and fabricated.

Learned counsel submits that the learned Member of the Juvenile Justice Board, however, differed with the view taken by learned Principal Magistrate. The learned Member has accepted the age mentioned in the matriculation certificate and declared the petitioner a juvenile aged about 16 years 4 months and 30 days. It is submitted that the view taken by learned Member of the Board is the correct view and the same is required to be affirmed by this Court.

Learned counsel for the petitioner submits that in fact the petitioner had not challenged the document i.e. the school admission register which was proved by the Incharge Principal of the concerned primary school but he had raised doubt over



the entries made in respect of the petitioner in the said register. He has further contended that earlier this petitioner was declared juvenile by the learned Juvenile Justice Board, Begusarai in connection with J.J.B. Case No. 838/2016 arising out of Begusarai Muffasil P.S. Case No. 138/2016 and that should have been taken into consideration.

On the other hand, Mr. Shashank Shekhar, learned counsel for the opposite party no. 2 has opposed the application. Learned counsel has taken this court through the scheme of Section 94 of the Act of 2015. It is submitted that the inquiry for assessment of age of the petitioner was taken up by the Board and his mother Bibha Devi (P.W.1) appeared and adduced documentary evidences such as matriculation registration certificate, admit card and mark-sheet of the matriculation examination to support the plea of juvenility, but the opposite party contested the case of the petitioner for declaration of his juvenility by bringing the school admission register of the primary school, Ram Nagar, Ramdiri on the record. The said document was duly proved and it was found that at serial no. 85 the name of the petitioner was mentioned, he was admitted in school in second standard on 30.04.2005 with the date of birth being 25.11.1998. As per the said date of birth the petitioner was



more than 18 years of age on the alleged date of occurrence i.e. 08.10.2017.

Learned counsel submits that the learned Principal Magistrate as well as learned Special Judge, Children Court have given more credence to the entries made in the school admission register. There was no evidence before the court to take a view that the entries made in the school admission register was forged or fabricated. In fact, the learned Principal Magistrate has went on to say that the petitioner did not bring any evidence to show that prior to his admission in IXth Class, in which school he had studied. Learned counsel has relied upon the judgment of the Hon'ble Supreme Court rendered in the case of **Rishipal Singh Solanki vs. State of Uttar Pradesh and Ors.** reported in **AIR 2022 SC 630**; to submit that wherever there is a reasonable ground for doubt regarding whether the person brought before the Juvenile Justice Board is a child or not, the Board shall undertake a process of age determination by seeking evidence and the age recorded by the Board shall be the age of the person.

It is his submission that for purpose of the proceeding under the Act of 2015, the age recorded by the learned Principal Magistrate of the Board which has been affirmed by the learned



Special Judge, Children Court, Begusarai be taken as the true age of the petitioner.

Having heard learned counsel for the petitioner as well as learned counsel for opposite party no. 2 as also on perusal of the records, this Court finds itself in agreement with the reasoning and rationale provided in the order of learned Principal Magistrate of the Board which has been affirmed by learned Special Judge (Children Court), Begusarai. Learned Magistrate has categorically recorded that as regards Exhibit 'B' which is the school admission register duly proved by the Principal Incharge of the school the other side had not brought any material to prove that the said admission register was forged or fabricated. The learned Magistrate has in fact, in order to give credence to the said school admission register went on to say that the petitioner has not disclosed as to in which other school he studied at the primary stage at the first instance. The petitioner had produced the matriculation certificate and he had appeared in the matriculation examination from S.P.S. High School, Binodpur where he had shown to have been admitted in Class IX in the year 2014 but prior to Class IX in which school he was studying was not disclosed.

So far as the contention of learned counsel for the



petitioner that the Board should have taken into consideration the order of the learned Juvenile Justice Board, Begusarai in connection with J.J.B. Case No. 838/2016 arising out of Begusarai Muffasil P.S. Case No. 138/2016 in which the petitioner has been declared juvenile, this court is of the considered opinion that the proceeding before the learned Juvenile Justice Board in the present case was a separate proceeding and it was to be dealt with independently on the basis of it's own materials which were placed on the record. The Board has, therefore, rightly taken a view based on the materials before it.

In the opinion of this Court, the learned Principal Magistrate has rightly taken a view that there was no material to disbelieve Exhibit 'B'. To this Court, therefore, it is crystal clear that the Revision Application has no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

