

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.685 of 2021

Arising Out of PS. Case No.-120 Year-2013 Thana- CHAPRA MUFFASIL District- Saran

NARAYAN SOMESHWAR Son of Ramendra Kumar Singh Resident of North Dahiyawan Tola, Near Water Tank, P.O.- Chapra, P.S.- Chapra Muffasil, District- Saran 841301.

... .. Petitioner

Versus

1. The State of Bihar
2. Rajeev Ranjan Singh Son of Hariharnath Singh Resident of Hemnagar, P.O.- Chapra, P.S.- Chapra Muffasil, District- Saran 841301.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr.Raushan, Advocate
For the State	:	Dr. (Mrs) Indihar Kumari, APP
For the O.P. No. 2	:	Mr. Tej Pratap Singh, Advocate Mr. Harsh Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 08-09-2022 Let the supplementary affidavit be taken on the record.

Heard learned counsel for the parties.

It is an admitted position in this case appearing from the records and not disputed by learned counsel for the O.P. No. 2 that prior to passing of the order dated 13.08.2015 by the learned Additional District and Sessions Judge-V Court, Saran at Chapra in Juvenile Appeal No. 94 of 2014, the petitioner had already appeared in the matriculation examination and he was registered with the Board during the session 2013-14 in Class IX. His matriculation examination were conducted between 03.03.2015 and 19.03.2015. He passed his matriculation



examination before the Juvenile Appeal No. 94 of 2014 was decided. Thus, on the date, the matter was taken up for consideration by the Juvenile Justice Board for determination of age afresh, the petitioner had filed the matriculation certificate showing his date of birth as 01.06.2000 but that was not considered.

Learned counsel for the petitioner submits that under a wrong advice, the petitioner agreed for undergoing the medical examination. It is submitted that in fact in view of the scheme of Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as the 'Rules of 2007') the matriculation certificate was admissible at first instance and any need to undergo the medical examination would have arisen only if the petitioner would have failed to produce any of the certificates as required in terms of Rule 12 (i), (ii), and (iii) of the Rules of 2007.

Learned counsel, therefore, submits that the impugned order suffers from non-consideration of the materials available on the record and is contrary to the established procedure of law.

Mr. Harsh Singh, learned counsel for O.P. No. 2 assisted by Mr. Tej Pratap Singh, learned advocate has opposed this application but towards the end of his argument, learned



counsel does not dispute that in this case the matriculation certificate was required to be looked into and an appropriate view should have been taken keeping in view the legal position as appearing from Rule 12 of the Rules of 2007.

Learned counsel for O.P. No. 2 agrees to the extent that the impugned order may be set aside and the matter be remitted to the learned Juvenile Justice Board, Saran, at Chapra to give a fresh consideration.

In the aforesaid view of the matter, the impugned orders are hereby set aside.

The Juvenile Justice Board, Saran at Chapra is directed to take up the issue of age determination of the petitioner afresh giving opportunity to both the parties to adduce their respective evidences and make their submissions. All contentions are left open to the parties.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

