

W.P.A. 7756 of 2020

Sanatan Ghosh  
Vs.  
The Union of India & Ors.

Mr. Krishna Deo Das  
...for the petitioner  
Mr. R.N. Bag  
Mr. Rohan Raj  
...for the respondents

Affidavit-in-opposition filed on behalf of the NIOS is taken on record.

Petitioner enrolled his name for writing final examination at the secondary level with National Institute of Open Schooling (NIOS). Petitioner participated in the examination held in October 2019 and he was declared successful in the final secondary examination conducted by NIOS. After declaration of the result petitioner found that in the provisional certificate and mark sheet wrong date of birth has been mentioned by the authorities of NIOS which requires correction based on transfer certificate dated 14<sup>th</sup> January, 2020 which is at page 13 ( annexure P2) of the writ petition.

Petitioner made online application as per the prevalent system as it appears from page 19 (annexure P7) of the writ petition. The request Id for changing date of birth based on online application of the petitioner is also indicated in the third column at page 19 of the writ

petition. Ultimately the online application of the petitioner for change of date of birth was rejected by the concerned authority of NIOS as it emanates from page 21 (annexure P8) of the writ petition. Petitioner is aggrieved by such rejection of his application for change of date of birth without assigning any reason in support of such rejection.

Mr. Rohan Raj, learned advocate is representing the NIOS and he has submitted as per the prevalent system for correction of date of birth online application is required to be made before the NIOS authority and on consideration of such application the appropriate authority of NIOS takes decision. Only decision of rejecting the application of the petitioner for change of date of birth was communicated to the petitioner online.

This Court having heard the learned advocates representing the parties and on examining the materials available on record finds that the decision to reject the application of petitioner for change of date of birth has been communicated to the petitioner online without assigning any reasons as to why the application of the petitioner was not required to be allowed. Since the authority of NIOS has taken a decision on the application of the petitioner seeking change of date of birth such authority is required to communicate the reasons in support of rejecting the application of the petitioner which has not been done in the present case. For

observance of principle of natural justice the appropriate authority of NIOS is required to apply its mind and pass a reasoned decision on the application of the petitioner.

In view of failure of the concerned authority of NIOS to pass a reasoned decision as emanates from page 21 of the writ petition whereby the application of the petitioner was rejected, stands set aside.

The Regional Director, Regional Centre-Kolkata being the respondent no. 4 is directed to pass a reasoned order on the application of the petitioner for change of date of birth within a period of 6 (six) weeks from the date of communication of this order. The decision to be taken by the respondent no. 4 shall be communicated to the petitioner within 1 (one) week thereafter.

However, it is made clear that this Court has not gone into the merit of the issue relating to change of date of birth of the petitioner.

Accordingly, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)