



W.P.(MD)No.20651 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.20651 of 2021

and

W.M.P.(MD)No.17273 of 2021

P.Murugaiya

... Petitioner

Vs.

**1.The Director,
Department of School Education,
Chennai.**

**2.The District Education Officer,
Office of the Kovilpatti District Education,
Kovilpatti,
Tuticorin District.**

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the second respondent dated 25.06.2013 vide his proceedings in Na.Ka.No.47218/M/E3/2013 and quash the same as illegal and consequently directing the first respondent to make necessary changes of the date of birth in the petitioner's school certificates as per the decree and judgment dated 18.10.1992.



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For Petitioner : Mr.C.Ezhilarasu
For Respondents : Mr.V.OM.Prakash
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is working as Noon Meal Organizer. In his service register, his date of birth had been entered as 05.07.1962. The entry in the service register was in turn made based on the entry made in the School Leaving Certificate of the petitioner. According to the petitioner, he was actually born on 19.09.1963. He therefore wants necessary changes to be made in the school certificates. The petitioner had knocked the door of the respondents. It was rejected. Challenging the same, the present Writ Petition has been filed.

3. The learned Government Advocate appearing for the respondents would state that the order impugned in the writ petition was passed as early as on 25.06.2013. The Writ Petition was filed only in November 2021. Since there is an extraordinary delay of eight years and



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the same has also not been explained, the learned Government Advocate wanted this Court to non-suit the petitioner by invoking doctrine of laches. He also would state that the petitioner is on the verge of retirement and therefore, he cannot be granted extension. He drew my attention to the decisions of the Hon'ble Supreme Court which had deprecated the practice of the Government servants approaching the Court literally at the last minute for effecting alteration in the date of birth.

4. I carefully considered the rival contentions and went through the materials on record.

5. The petitioner has enclosed the birth certificate at Page No.1 of the typed set of papers. It is seen that registration was made on 20.09.1963 itself. It can be seen therefrom that the petitioner was born on 19.09.1963. Of-course, as per Section 94 of the Juvenile Justice Act, the entry made in the school certificate would have preference even over the birth certificate. The petitioner however has not come to the Court at the last minute as contended by the learned Government Advocate.



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6. The petitioner had filed O.S.No.175 of 1990 on the file of the District Munsif Court, Kovilpatti in which the petitioner sought declaration that he was born on 19.09.1963. He wanted corrections to be made in the school certificate. In the said suit, the Government of Tamil Nadu as well as the Education Department and also the jurisdictional District Collector were shown as defendants. It is not as if the defendants remained exparte as we see these days. The written statement was filed and the issues were framed and on the side of the plaintiff, the writ petitioner examined himself as P.W.1. Ex.A1 to Ex.A4 were marked. The suit was decreed as prayed for on 28.10.1992. When the jurisdictional civil Court had granted the relief sought for by the petitioner, the Department ought to have made the necessary corrections. It is not as if the petitioner has come to the Court belatedly. The petitioner had joined service in the year 1987 and the suit was filed in the year 1990 itself. The petitioner cannot be faulted. The petitioner is armed with the decree of the jurisdictional Civil Court. It is well reasoned decree based on evidence. I direct the respondents to make necessary changes in the date of birth in the petitioner's school certificate as per the Judgment and decree dated 28.10.1992.



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7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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NOTE:Issue Order Copy on 20.07.2022

To

- 1.The Director,
Department of School Education,
Chennai.
- 2.The District Education Officer,
Office of the Kovilpatti District Education,
Kovilpatti,
Tuticorin District.



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G.R.SWAMINATHAN,J.

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