

CWP-21834-2018

Date of Decision: 08.08.2022

Om Parkash

....Petitioner

VS

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. J.S. Chatrath, Advocate
for the petitioner

Mr. Arun K. Kaundal, DAG Punjab

Mr. Praveen Chander Goyal, Advocate
for respondent No. 2

SUDHIR MITTAL, J. (Oral)

Originally, passport was issued to the petitioner on 04.09.2000. It recorded his date of birth as 16.03.1958. This passport was got re-issued on 16.09.2010 and the date of birth continued to be recorded as earlier. On 04.07.2018, the petitioner applied for change in the date of birth *inter alia* on the basis of his birth certificate. The same having not been done, the present writ petition was filed.

Learned counsel for the petitioner submits that the birth certificate takes primacy over all other documents evidencing the date of birth of a person and, thus, the passport authorities were not justified in refusing to correct the date of birth. He relies upon Division Bench judgment of this Court in ***Resham Singh vs. Union of India and another, 2008(1) RCR(Civil) 131.***

Learned counsel for respondent No. 2 submits that the petitioner applied for correction of date of birth after a period of 18 years. Thus, the delay has dis-entitled him to any relief. He has placed reliance upon judgment dated

Board of Secondary Education and others as well as judgment dated 23.06.2015 passed by learned Single Judge of the Kerala High Court in WP(C) No. 9073 of 2015 **Jayakumar vs. Regional Passport Officer.**

A perusal of **Resham Singh (supra)** shows that instructions dated 18.04.2001 issued by the Ministry of External Affairs directing a Passport Officer to refuse correction of date of birth when there are contradictory documents evidencing the same has been held to be illegal. It has been held that a Passport Officer has jurisdiction to issue a passport and accordingly in view of Section 21 of General Clauses Act, 1897 he would also have authority to correct the same. Statutory powers available to an official can not be whittled down by instructions. It has also been held that a birth certificate takes primacy over any other document so far as evidence of date of birth is concerned.

The judgment in **Ambika Kaul (supra)** relied upon by learned counsel for respondent No. 2 is not attracted as the said judgment has been passed in a case for correction of date of birth in the educational certificates. The judgment in **Jayakumar (supra)** is also not attracted as the facts therein are materially different.

In view of the law laid down in **Resham Singh (supra)**, the writ petition is allowed. Respondent No. 2 is directed to re-issue a corrected passport to the petitioner.

08.08.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No