

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on : 22nd September, 2022**
Pronounced on: 25th November, 2022

+ **W.P.(C) 2663/2022**

PREMA EVELYN DCRUZ Petitioner

Through: Mr. Rony John, Mr. Arshdeep Singh,
Mr. Piyush Swami and Mr. Anuj
Dubey, Advocates

versus

UNION OF INDIA AND ORS. Respondents

Through: Ms. Anamika Ghai Niyazi and Mr.
Arquam Ali, Advocates for CBSE

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

“कुछ नहीं है मगर है सब कुछ भी
क्या अजब चीज़ है ये कागज़ भी |
सारी दुनिया में जंग कागज़ की
जीने मरने की इजाज़त कागज़ |”

1. The aforesaid extract is taken from the biographical drama – *Kaagaz* (2021), which depicts the pangs and plight of people for papers at the pedestals of bureaucracy – the treatment that is meted out to poor people and how those without power and influence are made running from pillar to post, relegated to a life of humiliation in the quest of official documents. It

is the story of a piece of paper that holds more value and credence in today's world than a person in flesh and blood testifying his existence, and him being declared dead due to lack of valid documents. Though the movie was placed in the decades of 1970s, how much the situation has improved 50 years hence, remains to be introspected.

2. The instant petition revolves around the birth certificate of a woman who by the stroke of a pen got her birth year wrongly recorded as 1983 instead of 1981. In 2019, upon digitization and publication of birth records, she gained access to her birth certificate and thus began her saga of getting her year of birth corrected in all the official documents – from Aadhaar, Voter ID, PAN, and passport – in which she succeeded. However, her quest hit a roadblock with CBSE in the way, which declined to modify the same – and hence, the instant petition reached this Court.

3. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

“(A) Issue a Writ of Mandamus or any other Writ, Order or Direction directing the Respondents to correct the date of birth of the Petitioner in the passing certificate of the All India Secondary School Examination number 00289915 dated 07.06.1999 and any other document issued by the Respondents relying upon the aforesaid certificate, after recording her correct date of birth, i.e., 27.02.1981 (as recorded in the Birth Certificate issued under the Registration of Births and Deaths Act, 1969) pursuant to her application dated 17.11.2021, and to issue a fresh certificate to the Petitioner after making the aforementioned correction;

(B) In the alternative and without prejudice to the above, issue a Writ of Mandamus or any other Writ, Order or Direction directing Respondent No. 2 to decide the Petitioner's

application dated 17.11.2021, for change in date of birth in passing certificate of the All India Secondary School Examination number 00289915, after recording her correct date of birth i.e., 27.02.1981, in accordance with the law laid down by this Hon'ble Court and the Hon'ble Supreme Court.

(C) Issue an appropriate Writ, Order or Direction declaring that the Petitioner's Birth Certificate, issued by Greater Chennai Corporation (under the Registration of Births and Deaths Act, 1969) records her correct date of birth, i.e., 27.02.1981.

(D) Grant such further and other reliefs as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

FACTUAL MATRIX

4. The Petitioner is a citizen of India born in Chennai who was home-schooled and did not formally enroll in any educational institution during the period 1993 to 1999. Thereafter, the petitioner applied for appearing in the Secondary School Examination of the CBSE under the "Private Candidates" category, availing the services of an external agent. The said agent, while submitting relevant documents, indicated the Petitioner's date of birth as 27th February, 1983 which also came to be reflected in her admit card for the Secondary School Examination.

5. In July 2019, the petitioner learnt that the Greater Chennai Corporation which is the prescribed authority under the Registration of Birth and Deaths Act, 1969 for issuing birth certificates had digitised and published all birth certificates in the public domain. Thereafter, the petitioner was able to access her birth certificate on 23rd July, 2019.

6. Relying upon her birth certificate, the petitioner successfully updated her Aadhaar Card, Voter ID Card and her PAN Card to reflect her correct date of birth i.e. 27th February, 1981.

7. On 5th October, 2021, the petitioner attempted to rectify the error in her date of birth mentioned in the earlier passport and applied for re-issuance of the passport with the correct date of birth to the Regional Passport Office, New Delhi. She also applied to the CBSE for correction of her date of birth in her Class X Certificate, and to record her correct date of birth consistent with her birth certificate.

8. The Regional Passport Office and the CBSE did not take steps to rectify her date of birth, the petitioner filed the Writ Petition bearing No. W.P. (C) 2672 of 2022.

9. During the pendency of the Writ Petition bearing No. W.P. (C) 2672 of 2022, the Petitioner's application for rectification of her date of birth in her passport, pending before the Regional Passport Office, Delhi came to be allowed. Consequently, a fresh passport was issued by the concerned authority with the date of birth of the petitioner i.e. 27th February, 1981 on 6th September, 2022. The same petition was withdrawn as not pressed vide order dated 14th September, 2022 passed by the Coordinate Bench of this Court.

10. Aggrieved by the inaction of the CBSE for correcting her date of birth in records, the petitioner has approached this Court by way of the instant writ petition.

SUBMISSIONS

Submissions on behalf of Petitioner

11. Learned counsel appearing on behalf of the petitioner submitted that the respondent-CBSE has not disputed the authenticity of the Petitioner's birth certificate. The same birth certificate has also been relied upon by the Income Tax Department to issue PAN Card, Election Commission of India to issue Voter ID, Unique Identification Authority of India to issue Aadhaar Card and the Ministry of External Affairs to issue passport to correct the petitioner's date of birth in the aforesaid statutory documents.

12. Learned counsel for the petitioner submitted that a birth certificate issued by the appropriate authority under the Registration of Births and Deaths Act, 1969 carries a presumption of correctness, being a public document in terms of Section 74 of the Indian Evidence Act, 1872.

13. Learned counsel for the petitioner submitted that the CBSE is bound to rectify its records in accordance with a public document. For strengthening his argument, he has relied upon the judgment passed by the Hon'ble Supreme Court in the case of ***Jigyada Yadav v. CBSE, (2021) 7 SCC 535*** and particularly referred to the paragraph 194 of the said judgment which is reproduced as under:

“194. As regards request for “change” of particulars in the certificate issued by the CBSE, it presupposes that the particulars intended to be recorded in the CBSE certificate are not consistent with the school records. Such a request could be made in two different situations. The first is on the basis of public documents like birth certificate, Aadhaar card, election card, etc. and to incorporate change in the CBSE certificate consistent therewith. The second possibility is when the request for change is due to the acquired name by choice at a later

point of time. That change need not be backed by public documents pertaining to the candidate.

194.1. Reverting to the first category, as noted earlier, there is a legal presumption in relation to the public documents as envisaged in the 1872 Act. Such public documents, therefore, cannot be ignored by the CBSE. Taking note of those documents, the CBSE may entertain the request for recording change in the certificate issued by it. This, however, need not be unconditional, but subject to certain reasonable conditions to be fulfilled by the applicant as may be prescribed by the CBSE, such as, of furnishing sworn affidavit containing declaration and to indemnify the CBSE and upon payment of prescribed fees in lieu of administrative expenses. The CBSE may also insist for issuing public notice and publication in the Official Gazette before recording the change in the fresh 3 certificate to be issued by it upon surrender/return of the original certificate (or duplicate original certificate, as the case may be) by the applicant. The fresh certificate may contain disclaimer and caption/annotation against the original entry (except in respect of change of name effected in exercise of right to be forgotten) indicating the date on which change has been recorded and the basis thereof. In other words, the fresh certificate may retain original particulars while recording the change along with caption/annotation referred to above (except in respect of change of name effected in exercise of right to be forgotten).”

14. Learned counsel for the petitioner submitted that the CBSE does not have the expertise or jurisdiction to determine the correctness of the petitioner's birth certificate. He submitted that the Hon'ble Supreme Court in ***Jigya Yadav (supra)*** has further held as follows:

“174. ...Thus, the task of determining genuineness of the request was left to the CBSE, which not only goes contrary to

*our discussion above but also fails to take into account the limitations of CBSE as a body. **While considering requests for changes in certificates, CBSE cannot act as a court and it cannot effectively consider any request over and above those requests that merely require bringing the certificates in conformity with the school records or public documents, as the case may be.***

15. It is further submitted that no prejudice would be caused to the CBSE if the correction of the petitioner's date of birth is carried out. On the other hand, grave prejudice would be caused to the petitioner inasmuch as different documents belonging to the petitioner would reflect inconsistent date of births, which might result in various adverse legal consequences.

16. Learned counsel appearing on behalf of the petitioner submitted that vide several judicial pronouncements of this Court as well as the other High Courts, the CBSE has time and again been directed to correct the date of birth in Class X Certificates on the basis of the birth certificate issued under the Registration of Births and Deaths Act, 1969. In this regard, the learned counsel for the petitioner has placed reliance on *Jyoti v. Central Board of Secondary Education, 2019 SCC OnLine Del 11730*, *Spriha Choudhary v. Central Board of Secondary Education, 2018 SCC OnLine Del 13294*; *Aswani Balan v. Central Board of Secondary Education, 2021 SCC Online Ker 1337*; and *Aparna V. v. Central Board of Secondary Education, 2019 SCC OnLine Ker 9350*.

17. Learned counsel appearing on behalf of the petitioner submitted that there is no reason for the CBSE to deny rectification on the basis of the petitioner's birth certificate. The Hon'ble Supreme Court has already settled the position that there is no reason for the CBSE not to take notice of public

documents relied upon by a candidate to record a change in the certificate issued by it. He has again relied upon the judgment of the Hon'ble Supreme Court passed in the case of *Jigya Yadav (supra)* and referred to paragraph 168 of the said judgment which states as under:

“168. ... As regards public documents like birth certificate, Official Gazette, Aadhaar card, election card, etc. the same enjoy legal presumption of its correctness in terms of explicit provisions contained in Chapter V of the 1872 Act. The 1872 Act extends such presumption in terms of Section 76 read with Sections 79 and 80 of the 1872 Act and as in the case of Official Gazette under Section 81 of the same Act. Even other legislations concerning public documents attach equal importance to the authenticity of such documents including while making changes in their certificates to which we have alluded to in this judgment. Understood thus, there is no reason for the CBSE Board to not take notice of the public documents relied upon by the candidate and to record change on that basis in the certificate issued by it, for being consistent with the relied upon public documents...”

18. Learned counsel for the petitioner submitted that in light of the aforesaid submissions and the law settled by this Court as well as the Hon'ble Supreme Court, the CBSE may be directed to rectify the certificates of the petitioner to the extent that it reflects the correct date of birth as mentioned in the birth certificate issued by the Greater Chennai Corporation.

Submissions on behalf of the Respondents

19. *Per contra*, learned counsel appearing on behalf of CBSE vehemently opposed the submissions made on behalf of the petitioner and submitted that the instant petition is devoid of merit and is liable to be dismissed.

20. It is submitted that the change sought by the petitioner in the date of birth is not a mere correction in the documents but a way to change the age of the petitioner in official documents. It is further submitted that the petitioner has moved the application for change in the date of birth in Class X certificate after more than a decade and such an extraordinary delay in approaching the CBSE has not been explained in the instant petition.

21. It is submitted that CBSE has to maintain its records under the extant regulations being the Weeding Out Rules, 1998 and post the limitation period, the records are weeded out accordingly. The petitioner herein was a private candidate appearing in the Board exams and the limitation for weeding out records under the Weeding Out Rules, 1998 for private candidates stands at 10 years. It is submitted that as per available records with the Respondent Board, the board only has the Marks Tabulation Register for the Class X Board Exam held in 1999 in which the petitioner's date of birth is recorded as 27th February, 1981. It is further submitted that the said date of birth of the petitioner was recorded as per the documents submitted by the petitioner at the time of submitting of the Examination/Admission Form in Class X. The said documents which were submitted by the petitioner at the time of the admission/examination have already been weeded out as per the prescribed schedule.

22. Learned counsel appearing on behalf of the respondent/CBSE submitted that Examination Bye Laws, 1995 provided the following with regards to the applicable extant regulations and limitations to be followed by CBSE at the relevant period of time:

"69.2 Change/Correction in Date of Birth:

(i) No change in the date of birth once recorded in the Board's records shall be made. However, corrections to correct typographical and other errors to make the certificate consistent with the school records can be made provided that corrections in the school records should not have been made after the submission of application form for admission to Examination to the Board.

(ii) Such correction in Date of Birth of a candidate in case of genuine clerical errors will be made under orders of the Chairman where it is established to the satisfaction of the Chairman that the wrong entry was made erroneously in the list of candidates/application form of the candidate for the examination".

(iii) Request for correction in Date of Birth shall be forwarded by the Head of the School alongwith attested Photostat copies of:

(a) application for admission of the candidate to the School;

(b) portion of the page of admission and withdrawal register where entry in date of birth has been made; and

(c) the School Leaving Certificate of the previous school submitted at the time of admission.

*(iv) the application for correction in date of birth duly forwarded by the Head of School alongwith documents mentioned in byelaws 69.2(iii) shall be entertained by the Board only within two years of the date of declaration of result of Class X examination. **No correction whatsoever shall be made on application submitted after the said period of two years.** This will be effective from the examination to be held in March, 1995.*

23. Learned counsel for the respondent/CBSE submitted that since the limitation period for correction had crossed its due date and since the records stood weeded out, the respondent/CBSE stands at the impossibility of correction in the date of birth of the Petitioner without the availability of any documents to rely upon. Therefore, the application of the petitioner cannot be allowed being extraordinarily time barred.

24. It is further submitted that the reliance of the petitioner on the judgment of **Jigya Yadav (supra)** is completely misplaced. It is further submitted that in the same judgment the Hon'ble Supreme Court has provided the autonomy to the respondent/CBSE to reject an application in the event of non-traceability of record due to weeding out or expiration.

25. In support of his arguments, learned counsel for the respondent/CBSE relied upon the judgment in the case of **Jigya Yadav (supra)**. In paragraph 170 of the said judgment, the Hon'ble Supreme Court held as under:

" 170..... Indeed, it would be open to the CBSE to reject the application in the event the period for preservation of official records under the extant regulations had expired and no record of the candidate concerned is traceable or can be reconstructed "

26. It is further submitted that the petitioner has no vested right to seek correction of records without any limitation. In support of his arguments, he has relied upon the judgment in the case of **Board of Secondary Education of Assam v. Md. Sarifuz Zaman (2003) 12 SCC 408**. In this judgment, the Hon'ble Supreme Court held as under:

"10. ...People, institutions and government departments, etc. - all attach a very high degree of reliability, near finality, to the entries made in the certificates issued by the Board. The

frequent exercise of power to correct entries in certificates and that too without any limitation on exercise of such power would render the power itself arbitrary and may result in eroding the credibility of certificates issued by the Board. We, therefore, find it difficult to uphold the contention that the applicants seeking correction of entries in such certificates have any such right or vested right."

27. Learned counsel appearing on behalf of the respondent vehemently submitted that in view of the submissions as well as the law laid down by the Hon'ble Supreme Court, there is no merit in the instant petition and accordingly the instant petition is liable to be dismissed.

FINDINGS AND ANALYSIS

28. Heard learned counsel for the parties and perused the record.

29. Learned counsel appearing on behalf of the petitioner submitted that the birth certificate maintained by the local authority clearly establishes the actual date of birth and when it is evident that a wrong date of birth is incorporated in the school register and mark sheet, it requires to be corrected, failing which the petitioner will lose his opportunity for further avenues.

30. It is submitted on behalf of the respondent that the CBSE has to maintain its records under the extant regulations being the Weeding Out Rules, 1998 as post the limitation period the records are weeded out accordingly. The available records with the respondent Board only has the Marks Tabulation Register for the Class X Board Exam held in the year 1999 in which the petitioner's date of birth is recorded as 27th February, 1983. It is further submitted on behalf of CBSE that as per the regulation framed by them, the correction of date of birth can be done only if there is a

mistake in making the entry in the mark sheet compared to the entry in the school records. It is also contended that any such correction could be effected only if the candidate had approached CBSE within a period prescribed under the Statute from the date of receiving the marksheet.

31. In view of the foregoing discussion, the following issues are framed for consideration:

- I. Whether the correction referred to in the regulations and the bye-laws would take in a change of date of birth based on the birth certificate, issued by the Local Self-Government Institution.
- II. What exactly is the point from which the correction permitted should be presumed to commence.
- III. Whether the prescription of an outer limit for correction, itself can be sustained.

Answer to Issue no. (I), (II) and (III)

32. It is vehemently argued by the learned counsel for petitioner that despite being aware of her actual date of birth, the petitioner could not take any steps towards correcting her date of birth due to lack of sufficient documentation in support of the same at the relevant time. It is only on 23rd February, 2019 that the petitioner was able to access her birth certificate issued by the Greater Chennai Corporation, when the authority digitised and published all the birth certificates in the public domain. Therefore, the blame for delay, if any, in filing the application for correction of date of birth in the CBSE Class X Certificate, does not lie on the petitioner.

33. The CBSE functions under the overall supervision of the Controlling Authority which is vested with the Secretary (School Education & Literacy), Ministry of Human Resource Development, Government of India. The Governing Body of the Board is constituted as per its rules and regulations. The recommendations of all the Committees are placed for approval before the Governing Body of the Board. The Controller of Examinations is assigned with all matters concerning conduct of examinations and all matters connected therewith. Examination rules thus formulated are for the proper conduct of the examination and publication of results. Therefore, every student who writes the examination is bound to comply with the Examination Rules as well.

34. Rule 69.2, which is already mentioned in the foregoing paragraphs states that the application for correction in the date of birth duly forwarded by the Head of school along with the documents mentioned in byelaws 69.2(iii) shall be entertained by the Board only within the prescribed period. In the instant case, it is clear from the arguments raised by learned counsel for the petitioner that the discrepancy in the date of birth as revealed in the marksheet and the birth certificate issued by the local body would result in a prejudice to the candidate, especially when employment is sought in India or abroad and especially so, when abroad studies are to be undertaken by such candidates. In such an event, the foreign University or the foreign Embassy will verify the date of birth as available in the passport along with the marksheet and other credentials of the candidate to identify the person. Under such circumstances, if there is any discrepancy in the date of birth as seen in the mark sheet and in the passport of the candidate, they may suffer substantial prejudice.

35. The issue that thus arises for consideration of this Court is, to what extent this Court will be justified in directing correction of date of birth in the mark sheet based on an extract of birth certificate. The condition imposed in the bye-laws is not statutory in nature. But still, it is enforceable as the bye-law conditions have to be observed by every candidate who undertakes the Board Examinations. Such conditions cannot be totally ignored or brushed under the carpet and every candidate will have to comply with such conditions.

36. The evidentiary value of date of birth appearing in the mark sheet of a candidate is not disputed. In fact, even before the Registration of Births and Deaths Act, 1969 coming into force, the primary document relied upon for the purpose of understanding the date of birth of a candidate is the school records. It is either the extract of school admission register maintained by the school or the school leaving certificate/transfer certificate which are relied upon as proof of age. But in the instant case, this Court is not concerned with the correctness of the actual date of birth of the candidate. There are several examples available where while admitting the candidate to the school, the parents or guardian, as the case may be, had given a particular date of birth whereas in the register maintained by the statutory authority, the date of birth is different. This can arise under different circumstances. One may be a deliberate act, as the parents or guardian with full knowledge of the actual date of birth gives a different date of birth in the school for some advantage at the relevant time. Fraud may be practised, or it can also be an instance of mistake or on account of negligence or carelessness. But it is relevant to note that when a student studies in a school up to 10th standard or 10+2, the parents or guardian and

even the student gets the opportunity to verify the entry of date of birth in the school records. It is possible that the child was not be aware of the actual date of birth in the register maintained by the competent authority during the relevant time or might not have noticed the said fact at the relevant time. Therefore, it is apparent that two different dates of birth are available for a particular candidate, one in the register maintained by the school and second in the register maintained by the statutory authority. For all practical purposes, there could only be one date of birth for a person and either of it would be the correct date of birth. But I am not concerned with issue regarding the correctness of the date of birth and no such enquiry is being conducted by the CBSE. The only factor to be looked into is whether this Court can issue a mandamus to the CBSE to effect the correction *de hors* the restrictions imposed by them in their bye-laws.

37. Relying upon the birth certificate issued by the Corporation, the petitioner has successfully updated her Aadhaar Card, Voter ID Card, PAN Card and Passport to record her date of birth as 27th February, 1981.

38. In the instant case, the case of the petitioner does not fall under the category of clerical or typographical error, in comparison with the school records. It appears to be a genuine mistake as the date of birth is entered as 27th February, 1983 instead of 27th February, 1981. As rightly contended by the learned counsel for the petitioner, since the forms of the examination were filled up by the agent of the petitioner, therefore, he might have filled up the wrong date of birth of the petitioner. In other words, a situation as envisaged for reconciling the school records with the birth certificate from statutory authority, was not contemplated by the CBSE in their bye laws.

39. Therefore, I have to proceed on the basis that the bye-laws of the CBSE cannot be applied to the facts and circumstances of this case. However, to reconcile the date of birth entry in the mark sheet with that of the entry in the statutory certificate, the candidates should not be left without any remedy. Their right to approach the Court for redressing their grievance thus cannot be ruled out.

40. The next question is whether the Writ Court should exercise the power to direct correction of the entries in the mark sheet taking into account the entry in the birth certificate maintained by the statutory authority. It is a well settled principle of law that writ of mandamus can be issued only if an aggrieved party has an enforceable legal right under a statute or rule. The writ of mandamus can only be issued to an authority to do something when the petitioner has established a legal right vested in him and a corresponding legal duty vested in the State. The Hon'ble Supreme Court in the case of ***Rajasthan State Industrial Development & Investment Corpn. v. Diamond & Gem Development Corpn. Ltd.***, [(2013) 5 SCC 470] has held under :

"The primary purpose of a writ of mandamus is to protect and establish rights and to impose a corresponding imperative duty existing in law. It is designed to promote justice (ex debito justitiae). The grant or refusal of the writ is at the discretion of the court. The writ cannot be granted unless it is established that there is an existing legal right of the applicant, or an existing duty of the respondent. Thus, the writ does not lie to create or to establish a legal right, but to enforce one that is already established. While dealing with a writ petition, the court must exercise discretion, taking into consideration a wide variety of circumstances, inter alia, the facts of the case, the exigency that warrants such exercise of discretion, the

consequences of grant or refusal of the writ, and the nature and extent of injury that is likely to ensue by such grant or refusal.”

41. The same ratio has been held by the Hon’ble Supreme Court of India in the cases of ***Food Corpn. of India v. Ashis Kumar Ganguly (2009) 7 SCC 734*** and ***State of M.P. v. Sanjay Kumar Pathak (2008) 1 SCC 456***.

42. Hence, the discretion must be exercised by the court on grounds of public policy, public interest and public good. The writ is equitable in nature and thus, its issuance is governed by equitable principles. Refusal of relief must be for reasons which would lead to injustice. The prime consideration for the issuance of the said writ is, whether or not substantial justice will be promoted. Furthermore, while granting such a writ, the Court must make every effort to ensure from the averments of the writ petition, whether there exist proper pleadings. In order to maintain the writ of mandamus, the first and foremost requirement is that the petition must not be frivolous, and must be filed in good faith. Additionally, the applicant must make a demand which is clear, plain and unambiguous. It must be made to an officer having the requisite authority to perform the act demanded. Furthermore, the authority against which mandamus is issued, should have rejected the demand earlier. Therefore, a demand and its subsequent refusal, either by words, or by conduct, are necessary to satisfy the court that the opposite party is determined to ignore the demand of the applicant with respect to the enforcement of his legal right. However, a demand may not be necessary when the same is manifest from the facts of the case, that is, when it is an empty formality, or when it is obvious that the opposite party would not consider the demand.

43. In *Sarifuz Zaman (supra)*, the request was made to correct the date of birth in the marksheet, on the basis that at the time of admission a clerical error occurred in making an entry in the school records. Hence, this judgment cannot be applied to the facts of the present case. In the present case, where the petitioner admits that his agent has given a wrong date of birth in the form of 10th Board Examination and seeks to reconcile it with the birth certificate. Therefore, the ruling in *Sarifuz Zaman (supra)* is not applicable to the present case.

44. It is also contended that the future prospects of the petitioner will also be affected if the entry of date of birth in the mark sheet does not tally with that in the birth certificate issued by the statutory authority. In other documents like Aadhaar Card, Voter ID Card, PAN Card and Passport, the date of birth has already been updated as 27th February, 1981. I am of the view that, failure to exercise jurisdiction may put the petitioner to serious hardship. Hence, to render justice, it is always open for the Court to pass appropriate orders, taking into account the facts and circumstances of each case. However, if disputed questions of fact arise, it will not be appropriate for this Court to entertain the matter. In the present case, there is delay on the part of the petitioner in approaching CBSE, which has been properly explained. It is also noted that other authorities have already updated the date of birth in their documents relying upon the birth certificate issued by the Greater Chennai Corporation. Therefore, failure to exercise jurisdiction will result in injustice to the petitioner. Such writ petition can therefore be entertained.

45. In view of the foregoing discussion and analysis, issues no. (I), (II) and (III) have been decided accordingly.

CONCLUSION

46. To meet the ends of justice, it will be appropriate for this Court to dispose the writ petition with the following directions for compliance forthwith:

i) The CBSE shall correct the entries in the mark sheet of the petitioner with reference to her corresponding birth certificate issued by the statutory authority and other documents like Aadhar Card, Voter ID Card, PAN Card and Passport.

ii) The CBSE can demand in advance a consolidated fee, including all expenses for processing such application.

47. With the aforesaid directions, the instant petition is allowed and stands disposed of along with pending applications, if any.

48. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

NOVEMBER 25, 2022
gs/adityak.

नस्यमेव जयते