

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.738 of 2022

Arising Out of PS. Case No.-253 Year-2013 Thana- CHAPRA MUFFASIL District- Saran

SHILANATH SAH Son of Late Devnath Sah R/o village - Umadha, P.S.-
Chapra Mufassil, District - Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. XXX Son of Late Raj Kishore Sah R/o village - Umadha, P.S.- Chapra Mufassil, District - Saran, Under the guardianship of his mother Paspati Devi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Bishwajeet Singh
For the Respondent/s	:	Mr.Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

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| 3 | 26-09-2023 | <p>1. The present revision application has been filed challenging the order, dated 17.07.2021, passed by the Juvenile Justice Board, Saran, in Juvenile Enquiry No. 377 of 2021, arising out of Chapra Mufassil Police Station Case No. 253 of 2013, and the appellate order, dated 19.07.2022, passed by learned 1st Additional Sessions Judge -cum- Children Court, Saran, at Chapra, in Criminal (Juvenile) Appeal No. 33 of 2021, by which the learned Appellate Court has rejected the prayer of the petitioner for constitution of medical board to ascertain the age of the juvenile in conflict with law, i.e. Opposite Party No. 2, and thus, upheld the order passed by the</p> |
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learned Juvenile Justice Board, Saran.

2. Learned Counsel for the petitioner argued that the Opposite Party No. 2 has been declared a juvenile on the basis of matriculation certificate produced by him, wherein his date of birth was recorded as 12.01.1996. On the basis of the said matriculation certificate, he has been declared as a juvenile on the date of occurrence by order, dated 17.07.2021, passed by the Juvenile Justice Board, Saran, in Juvenile Enquiry No. 377 of 2021. He further submits that the Opposite Party No. 2 and his parents have played fraud inasmuch as the Opposite Party No. 2 has also appeared in the matriculation examination in the year 2018, in which his date of birth has been recorded as 12.04.2002. According to him, the Opposite Party No. 2 has appeared twice in the matriculation examination in which he has given two different dates of birth. As such, the matriculation certificate, produced on behalf of the juvenile, cannot be relied upon inasmuch as the date of birth in two matriculation certificates are different. As such, the authenticity of the date of birth mentioned in the matriculation certificate produced by the Opposite Party No. 2 is doubtful and accordingly, the Juvenile Justice



Board ought to have directed for determination of the age of Opposite Party No. 2 on the basis of medical examination. He further submits that the Opposite Party No. 2 appeared in the appellate court, but did not deny the fact that he took two matriculation examinations in two different years, having two different dates of birth.

3. I have heard learned Counsel for the parties and have gone through the materials available on record, including the impugned orders.
4. Upon perusal of the order, dated 17.07.2021, passed by the Juvenile Justice Board, Saran, it appears that only one certificate, containing the date of birth of the Opposite Party No. 2 has been produced, in which the date of birth of the Opposite Party No. 2 is mentioned as 12.01.1996. Learned Juvenile Justice Board, on the basis of the date of birth mentioned in the matriculation certificate has determined the age of the Opposite Party No. 2 as 17 years 09 months 28 days, on the date of occurrence.
5. Admittedly, the second matriculation certificate, in which the date of birth of the Opposite Party No. 2 is mentioned as 12.04.2002, was not filed/produced by the Opposite Party No. 2 before the learned Juvenile Justice Board at



the time of determination of his date of birth. As such, it is clear that the determination of the age of the Opposite Party No. 2 has been done by the Juvenile Justice Board on the basis of the first matriculation certificate produced by him.

6. The determination of the age of a child is guided by Section 94 of the of the Juvenile Justice (Care and Protection of Children) Act, 2015. Sub-clause (2) of Section 94 of the of the Juvenile Justice (Care and Protection of Children) Act, 2015, envisages that in case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining (i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof; (ii) the birth certificate given by a corporation or a municipal authority or a panchayat; and (iii) only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age



determination test conducted on the orders of the Committee or the Board:

7. In view of the aforesaid provision, at the time of determination of the age of a person/child, the Board/Committee is required to consider the matriculation certificate at the first instance. In the present case, the matriculation certificate produced by the Opposite Party No. 2 is not doubtful. As such, in my opinion, both the District Courts have rightly considered the date of birth mentioned in the matriculation certificate produced by the Opposite Party No. 2. The petitioner has failed to make out any case for age determination of the Opposite Party No. 2 on the basis of medical examination.
8. This application is , accordingly, dismissed.

AFR/
Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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