

W.P.A. 23185 of 2022

**Sri Shib Sankar Sahoo
Vs.
The State of West Bengal & Ors.**

Mr. Gour Baran Sau ... For the petitioner.

Ms. Koyeli Bhattacharyya ... For the WBBSE.

The petitioner was an approved Assistant Teacher of a secondary school. He is alleging that his date of birth (February 17, 1957) recorded in the admit card and pass certificate issued by the West Bengal Board of Secondary Education is not correct, it should have been July 05, 1958.

The petitioner filed a writ petition being W.P. 31343 (W) of 2014 praying correction of his date of birth in the said documents. The maintainability of the said writ petition was questioned on the ground of delay.

The instruction of the West Bengal Board of Secondary Education being circular No. Age/G/I/October/77 dated October 03, 1977 prescribes the procedure for recording and correction of the date of birth of the pupil in the Admission Register of a Secondary School.

Regarding the period of limitation for filing an application for correcting the date of birth, the learned Single Judge could not agree with the view expressed by another Single Judge of this Court in the matter of ***Ms. Krishna Basu @ Bosu Vs. State of West Bengal and Others***(W.P. 18467 (W) of 2010) and referred the following issue to the Larger Bench of this Court for answer:

“Whether the time limit of 7(seven) years to apply for correction of date of birth is rigid and inflexible, or is the West Bengal Board of

Secondary Education empowered to effect such correction at any time on the application of an aggrieved party, provided exceptional circumstances are shown by the relevant authority and that the case is fit to be entertained?”

The Hon'ble Division Bench by the judgment and order dated November 28, 2017 answered the said issue as follows:-

“There is a time limit of seven years for an application for correction of the date of birth to be made in terms of the circular of October 3, 1977, but such time limit is neither rigid nor inflexible in that clause 8(vii) thereof conceives of applications being entertained after the period of seven years but only under special circumstances on the recommendation of the Age Correction Committee of the Board.”

The said writ petition thereafter was disposed of by the order dated September 07, 2018 directing the Age Correction Committee of the Board to consider the application of the petitioner in terms of Paragraph 8 Clause (vii) of the aforementioned circular and to pass a reasoned order in accordance with law, in compliance thereof, the President of the Ad-hoc Committee of the Board by the order dated November 20, 2018 dismissed the application of the petitioner holding that admittedly, the petitioner has not made any application for correction of his date of birth, in the absence of which, no decision in this regard can be taken by the Board.

The aforesaid decision of the Board was challenged by the petitioner in W.P.A. 11524 of 2021. The learned Single Judge of this Court vide order dated September 13, 2021 dismissed the said writ petition. An appeal against the said order being MAT No. 1240 of 2021 was disposed of vide order dated January 03, 2022 directing Ad-hoc committee of the Board to consider the prayer of the petitioner upon relevant documents being submitted by him.

In compliance with the aforementioned direction, the President of the Board by the order impugned dated August 03,

2022, has dismissed the said application of the petitioner holding *inter alia* that the petitioner in the year 1978 noticed the alleged anomaly in the date of birth but approached the Board for correction of the said date for the first time only in the year 2010 i.e. after lapse of almost three decades. Besides, the explanation offered by the petitioner to justify the delay that he could not approach the Board for such correction earlier due to tornado in his village in the year 1998 was found to be unconvincing so as to bring the same within the purview of 'special circumstances' envisaged under Clause (vii) of Paragraph 8 of the aforementioned circular.

In terms of paragraph 8 of the instruction of the Board dated October 03, 1977, only any clerical error including case of absurd date of birth can be reported to the Board for correction within the period of limitation prescribed under the said instruction. 'There is no clerical mistake in recording the date of birth of the petitioner' is the remark of the Head of the Institution wherefrom the petitioner appeared for his Madhyamik Examination.

The order impugned, for the aforesaid reasons, does not call for any interference accordingly, W.P.A. 23185 of 2022 is dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

Parties to act on the server copy of this order duly downloaded from the official *website* of the Court.

(Biswajit Basu, J.)