



W.P.No.3957 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2023

CORAM

THE HONOURABLE Mr.JUSTICE C.V.KARTHIKEYAN

W.P.No.3957 of 2023

S.Kamalakannan

... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Higher Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Secretary,
Department of School Education.
Secretariat,
Chennai - 600 009.
3. The Director,
Directorate of Government Examination,
DPI Complex,
College Road,
Chennai - 600 006.
4. The Joint Director of School Education,
O/o. The Director of School Education,
DPI Complex, College Road,
Chennai - 600 006.



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5. The Secretary
Board of Matriculation Examination,
Department of Government Examination,
DPI Complex, College Road.
Chennai - 600 006. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorified Mandamus calling for the proceedings of the 4th respondent in A.T.Mu.No.020015/B5(1)/2022, dated 19.10.2022 and quash the same and consequently direct the respondents 1 to 5 to rectify the petitioners date of birth as 20.12.1982 instead of 16.12.1982 in the 10th mark sheet Register No.243503 on 21.06.2000 and 12th mark sheet Register No. 864632 on 17.05.2022.

For Petitioner : Mr.K.Sivasubramanian

For Respondents : Mr.U.Baranidharan,
Additional Government Pleader
for R1 to R4

ORDER

This Writ Petition has been filed in the nature of Writ of Certiorified Mandamus seeking interference with the proceedings of the 4th respondent/Joint Director of School Education, Chennai, dated 19.10.2022 in A.T.Mu.No.020015/B5(1)/2022.



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2.The petitioner herein, S.Kamalakannan was born on 20.12.1982. Unfortunately, his parents while admitting him to School had given his date of birth as 16.12.1982. This date of birth continued in all the School records and also in the 10th Standard and 12th Standard mark sheets. The petitioner has got an employment. At that time, the employer sought his birth certificate. When he applied for the birth certificate, it was found that his date of birth is actually 20.12.1982. He sought correction of the date of birth in the School records from 16.12.1982 to 20.12.1982. The 4th respondent refused to do so. Therefore, this Writ Petition has been filed.

3.Heard the learned counsels appearing on either side and perused the records.

4.The issue is no longer *res integra*. The learned counsel for the petitioner has placed reliance on an order of the Hon'ble Supreme Court reported in **(2021) 7 SCC 535 [Jigya Yadav (minor), through Guardian /**



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father Hari Singh Vs. Central Board of Secondary Education and

Others]. The Hon'ble Supreme Court was concerned with many Writ Petitions and litigations filed of similar nature across the country and it therefore thought it prudent to consolidate all the matters and take them on record and a detailed order had been passed. The relevant portions had also been extracted in the counter affidavit. I would also extract the same for better reference:-

*“193. The first is where the incumbent wants “**correction**” in the certificate issued by the CBSE to be made consistent with the particulars mentioned in the school records.*

193.1. As we have held, there is no reason for the CBSE to turn down such request or attach any precondition except reasonable period of limitation and keeping in mind the period for which the CBSE has to maintain its record under the extant regulations. While doing so, it can certainly insist for compliance of other conditions by the incumbent, such as, to file sworn affidavit making necessary declaration and to indemnify the CBSE from any claim against it by third party because of



such correction. The CBSE would be justified in insisting for surrender/return of the original certificate (or duplicate original certificate, as the case may be) issued by it for replacing it with the fresh certificate to be issued after carrying out necessary corrections with caption/annotation against the changes carried out and the date of such correction. It may retain the original entries as it is except in respect of correction of name effected in exercise of right to be forgotten. The fresh certificate may also contain disclaimer that the CBSE cannot be held responsible for the genuineness of the school records produced by the incumbent in support of the request to record correction in the original CBSE certificate. The CBSE can also insist for reasonable prescribed fees to be paid by the incumbent in lieu of administrative expenses for issuing fresh certificate.

193.2. *At the same time, the CBSE cannot impose precondition of applying for correction consistent with the school records only before*



publication of results. Such a condition, as we have held, would be unreasonable and excessive. We repeat that if the application for recording correction is based on the school records as it obtained at the time of publication of results and issue of certificate by the CBSE, it will be open to CBSE to provide for reasonable limitation period within which the application for recording correction in certificate issued by it may be entertained by it. However, if the request for recording change is based on changed school records post the publication of results and issue of certificate by the CBSE, the candidate would be entitled to apply for recording such a change within the reasonable limitation period prescribed by the CBSE. In this situation, the candidate cannot claim that she had no knowledge about the change recorded in the school records because such a change would occur obviously at her instance. If she makes such application for correction of the school records, she is expected to apply to the CBSE immediately after the school records are modified and which



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ought to be done within a reasonable time.

193.3. 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. In the case of subsequent amendment of school records, that may occur due to different reasons including because of choice exercised by the candidate regarding change of name. To put it differently, request for recording of correction in the certificate issued by the CBSE to bring it in line with the school records of the incumbent need not be limited to application made prior to publication of examination results of the CBSE.

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 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).

194.2. *However, in the latter situation where the change is to be effected on the basis of new acquired name without any supporting school record or public document, that request may be entertained upon insisting for prior*



permission/declaration by a court of law in that regard and publication in the Official Gazette including surrender/return of original certificate (or duplicate original certificate, as the case may be) issued by CBSE and upon payment of prescribed fees. The fresh certificate as in other situations referred to above, retain the original entry (except in respect of change of name effected in exercise of right to be forgotten) and to insert caption/annotation indicating the date on which it has been recorded and other details including disclaimer of CBSE. This is so because the CBSE is not required to adjudicate nor has the mechanism to verify the correctness of the claim of the applicant.

195. In light of the above, in exercise of our plenary jurisdiction, we direct the CBSE to process the applications for correction or change, as the case may be, in the certificate issued by it in the respective cases under consideration. Even other pending applications and future applications for such request be processed on the same lines and in particular



the conclusion and directions recorded hitherto in paras 193 and 194, as may be applicable, until amendment of relevant bye-laws. Additionally, the CBSE shall take immediate steps to amend its relevant bye-laws so as to incorporate the stated mechanism for recording correction or change, as the case may be, in the certificates already issued or to be issued by it”

The said Judgment is binding on the State Authorities, particularly, all the respondents herein.

Therefore, in accordance with the above ratio laid down, this Writ Petition is disposed of with a direction to the petitioner to approach the 4th and 5th respondents and they are directed to make necessary enquiry on the aforementioned issue. No costs.

24.02.2023

Index :Yes/No
Speaking/Non speaking order
mps

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C.V.KARTHIKEYAN, J,

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