



W.P.No. 27802 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No. 27802 of 2022

Gaurav Kumar Anand

... Petitioner

Vs

1. The Chairman,
The Central Board of Secondary Examination
(CBSE),
Shiksha Sadan, No. 17, Rouse Avenue,
New Delhi – 110002.

2. The Regional Officer,
The Central Board of Secondary Education
Regional Office (CBSE),
Plot No, 1630 A, J Block,
15th Main Road, Anna Nagar West,
Chennai – 600040.

...

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus calling for the records 30.06.2022 vide CBSE/RO(M)/LEGAL/DOB CORRN/2022/SP issued by the second respondent and to quash the same as arbitrary and without jurisdiction and directing the second respondent to effect corrections in respect of the petitioner's date of birth as 02.06.1987 in Grade cum Secondary School certificate vide Roll No. 4126628 and S.No.217749 issued on 14.08.2022.



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For the Petitioner
For the Respondents

: Mr. G. Anandakumar
: Mr. G. Nagarajan

ORDER

The writ petition has been filed in the nature of a writ of certiorarified mandamus seeking for the records dated 30.06.2022 in CBSE/RO(M)/LEGAL/DOB CORR/2022/SP issued by the second respondent/Regional Officer, the Central Board of Secondary Education, Regional Office (CBSE) at Chennai and to quash the same and consequently direct the said second respondent to effect corrections with respect to the date of birth of the petitioner which actually is 02.06.1987 and which has been given, according to the petitioner wrongly as 02.06.1984 in the Grade cum Secondary School certificate for Roll No. 4126628 and S.No. 217749 which had been issued on 14.08.2002.

2. The petitioner had studied in Kendriya Vidyalaya School, ONGC Complex, at Navi Mumbai and completed his X std examination in the year 2002. He suddenly realized that the date of birth in his certificate which had been issued by the second respondent had been shown as 02.06.1984 though he was actually born on 02.06.1987 at Uttar Pradesh.



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3. It is stated that his date of birth was registered and had been published in the Government Gazette Notification and is also reflected in the Aadhar card and pan card.

4. The petitioner seeks correction of the date of birth from 02.06.1984 to 02.06.1987.

5. Notice had been directed to the respondents who had also filed counter affidavit. It had been stated that the second respondent is not required to adjudicate that issues and does not have the mechanism to verify the correctness of the claim of the petitioner.

6. It had been stated that the second respondent would abide by the directions of the Hon'ble Supreme Court as given in a batch of civil appeals and reported in **2021 7 SCC page 535, Jigya Yadav (Minor) vs C.B.S.E. (Central Board of Secondary Education) and Others.** In that particular matter, the Supreme Court had taken up on itself the onerous responsibility of examining issues like corrections in the date of birth, corrections in the name of students who are of the impression that the said details had been wrongly given in the School certificate issued by the Central Board of



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Secondary Education.

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7. The findings of the Hon'ble Supreme Court had been given at the following paragraphs:

169. Although we have discussed the broad issues canvassed before us, in the ultimate analysis the real dispute requiring resolution is about the nature of correction or change, as the case may be, permissible to be carried by the CBSE at the instance of the student including past student. As noted earlier, broadly, two situations would arise.

170. 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. 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



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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. 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 ought to be done within a reasonable time. 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



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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.

171. 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.

(a) 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



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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).

(b) 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.



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172. 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 paragraphs 170 and 171, as may be applicable, until amendment of relevant Byelaws. Additionally, the CBSE shall take immediate steps to amend its relevant Byelaws 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.

8. The respondents may act in accordance with the guidelines given by the Honourable Supreme Court and if the petitioner is able to establish that his actual date of birth is 02.06.1987 may take a decision accordingly. The onus is on the petitioner to provide necessary proof that his date of birth is actually 02.06.1987 and not 02.06.1984.

9. Stating as above, the writ petition stands disposed of. No costs.

01.02.2023

Index: Yes/no
mrn

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To

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C.V.KARTHIKEYAN, J.
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