

IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH

270

CWP-14008-2022 (O&M).  
Date of Decision: 11.05.2023.

GEETIKA GUPTA

.. Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Shaveta Sanghi, Advocate,  
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G. Haryana,  
for respondents No.1 and 2.

Mr. Sumit S. Bairagi, Advocate, for  
Mr. Sidharth Bagla, Advocate,  
for respondents No.3 and 4.

**VINOD S. BHARDWAJ, J. (ORAL)**

The present writ petition has been filed for seeking correction of the date of birth of the petitioner in her birth certificate dated 12.05.2022 (Annexure P-7) from “30.06.1983” to “29.06.1983” as the same is stated to be an outcome of a clerical mistake while recording the said entry.

The petitioner claims that she was born on the intervening night of 29.06.1983 and 30.06.1983 at District Charkhi Dadri, Haryana (then part of District Bhiwani). Her date of birth, as per the school record, is 29.06.1983. The aforesaid date has been depicted in all other legal documents as well such as i.e. the Permanent Account Number; Driving License; Passport; Visa and Aadhaar Card. The petitioner got married to

Mr. Amit Gupta on 02.11.2009 and even her marriage certificate records the above said date of birth. It is averred that as the husband of the petitioner is residing in United States of America, the petitioner submitted an application for grant of a Green Card whereupon the Embassy asked the petitioner to furnish her birth certificate. When a copy of the birth certificate was supplied, it was noticed that her date of birth has been recorded as 30.06.1983 instead of 29.06.1983 in the record of the Registrar of Births and Deaths. She contends that the above said error in the record crept on account of the birth on the intervening night of 29.06.1983 and 30.06.1983 and furnishing of the information regarding date of birth as 30.06.1983 was not intended to derive any undue gain/benefit. She further contends that all other statutory documents/certificates/identity cards issued by the respective State Agencies have been specifically showing her date of birth as 29.06.1983 and that she has never derived and does not want to avail any advantage/benefit on account of the correction of the aforesaid date by one day to 29.06.1983.

Learned counsel for the respondents, however, contend that the birth of the petitioner was at 2:40 A.M on the intervening night of 29.06.1983 and 30.06.1983 and as a result of the time, the date would be 30.06.1983 and the same has been correctly recorded in the record of the Registrar of Births and Deaths. It has also been submitted that the petitioner has now approached the respondents after much delay for seeking the above said correction and that the petition ought to be dismissed on the ground of delay and laches.

I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended along with the present petition.

It transpires from the perusal of the above that the birth of the petitioner was on the intervening night of 29.06.1983 and 30.06.1983 and it was only a technical issue that the date would change after 00:00 hours and the date 30.06.1983 would commence. Even record of the Registrar of Births and Deaths cannot be construed as having been incorrectly recorded, however, taking into consideration that no undue or unfair advantage has been derived by the petitioner and that she is likely to be gravely prejudiced on account of her future prospects including the grant of Green Card by the United States of America, therefore, the error in recording her date of birth should not stand in the way of the further prospects. The error seemingly is non-malicious and is based on an understanding that the date would be 29.06.1983 instead of 30.06.1983 and the time of birth would have no bearing on the date of birth. Such belief about layman understanding of the date and the scientific recording of date is not something which is unheard of. Such unintended errors are normal and occur while giving such information. The intent becomes all the more relevant since the variance is only by a day and the petitioner is claiming increase of age. There is no allegation or objection of the respondents that the petitioner had derived any unfair gain or undue advantage which would not have accrued to her if her date of birth would have been correctly recorded.

Further, the objection of delay on the part of the petitioner in approaching this Court is concerned, the above said objection is rejected for the reason that it is a recurring cause of action and there is nothing on

record to suggest that the petitioner was aware of the date of birth being incorrectly recorded. The petitioner did not suffer any prejudice earlier on account of the wrong recording of the date and that the cause for her to approach this Court for seeking the aforesaid correction accrued to her when she applied for the birth certificate and the same was supplied to her on 12.05.2022. It is not the case of the respondents that the petitioner had earlier sought a copy of the birth certificate and she was fully aware of the date of birth having been recorded as 30.06.1983. She has thus fairly assumed that her date of birth was 29.06.1983 and had no reasons to challenge the same. Further, it cannot be said that carrying out the correction of the aforesaid nature and by changing the date of birth of the petitioner from 30.06.1983 to 29.06.1983 would cause a grave prejudice to the respondents.

Section 15 of the Registration and Births and Deaths Act, 1969 provided for the correction or cancellation of entry in the register of the Births and Deaths and reads as under:-

***“15. Correction or cancellation of entry in the register of births and deaths. - If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.”***

Taking into consideration the above said facts and also the fact that Section 15 of the Registration and Births and Deaths Act, 1969, empowers the Registrar to carry out the correction which has been due to typographical error/clerical mistake, I have no reason to presume that the discrepancy in the date of birth has erupted as a result of mistake on the part of the parties and in order to reconcile the issue and to avoid any prejudice that may be caused to the petitioner, the equitable jurisdiction would mandate that the necessary correction be recorded in the record.

Accordingly, the present petition is allowed and respondent No.4 i.e. the Registrar, Births and Deaths, Municipal Committee, District Charkhi Dadri, Haryana, is directed to issue a fresh date of birth certificate to the petitioner after making an appropriate incorporation and recording the date of birth of the petitioner as 29.06.1983 instead of 30.06.1983.

Petition is allowed.

**May 11, 2023**  
**raj arora**

**(VINOD S. BHARDWAJ)**  
**JUDGE**

*Whether speaking/reasoned* : Yes/No  
*Whether reportable* : Yes/No