

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**2023:PHHC:164476
CWP No.20490 of 2021
Date of Decision:21.12.2023**

Sarbjit Singh

....Petitioner

VS.

Union of India and another

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Kulwinder Singh, Advocate
for the petitioner

Ms. Alisha Arora, Central Govt. Counsel
for the Union of India

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to issue him passport with correct date of birth.

2. The petitioner was issued passport on 03.09.2003 wherein his date of birth was recorded as 10.04.1963. The said passport expired on 02.09.2013 and a fresh passport came to be issued on 25.03.2014 which is valid upto 24.03.2024. The petitioner has applied for re-issuance of passport with correct date of birth. As per petitioner his correct date of birth is 10.04.1956. The petitioner is relying upon birth certificate dated 18.07.2020 issued by Health and Family Welfare Department, Government of Punjab. He further submits that the birth certificate takes primacy over all other

documents evidencing the date of birth of a person and, thus, the passport

authorities were not justified in refusing to correct the date of birth. He relies upon Division Bench judgment of this Court in “**Resham Singh vs. Union of India and another, 2008(1) RCR(Civil) 131**”.

3. Counsel for respondents submits that the petitioner on the earlier occasion did not submit birth certificate and on the basis of documents submitted by him, passport came to be issued. The date of birth at this belated stage cannot be corrected. Thus, the delay has dis-entitled him to any relief. He has placed reliance upon judgment dated 21.05.2015 passed in **LPA No. 1613 of 2014 titled as “Ambika Kaul vs. Central Board of Secondary Education and others”** as well as judgment dated 23.06.2015 passed by learned Single Judge of the Kerala High Court in **WP(C) No. 9073 of 2015 “Jayakumar vs. Regional Passport Officer”**.

4. A perusal of **Resham Singh (supra)** shows that instructions dated 18.04.2001 issued by the Ministry of External Affairs directing a Passport Officer to refuse correction of date of birth, when there are contradictory documents evidencing the same has been held to be illegal. It has been held that a Passport Officer has jurisdiction to issue a passport and accordingly in view of Section 21 of General Clauses Act, 1897, he would also have authority to correct the same. Statutory powers available to an official can not be whittled down by instructions. It has also been held that a birth certificate takes primacy over any other document, so far as evidence of date of birth is concerned. The judgment in **Ambika Kaul (supra)** relied upon by counsel for respondents is not attracted as the said judgment has been passed in a case for correction of date of birth in the educational

certificates. The judgment in **Jayakumar (supra)** is also not attracted as the facts therein are materially different.

5. In view of the law laid down in **Resham Singh (supra)**, the writ petition is allowed. Respondents are directed to re-issue passport to the petitioner with correct date of birth.

(JAGMOHAN BANSAL)
JUDGE

21.12.2023
paramjit

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