

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-21242-2023

Date of decision : 25.09.2023

Moxhda Bajaj

... Petitioner

Versus

Central Board of Secondary Education and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHLPresent: Mr. Amit Arora, Advocate
for the petitioner.Mr.Naveen Chopra, Advocate
for respondent no.1.Mr.Dinesh Arora, Advocate
for respondent no.2.**VIKAS BAHL, J.(ORAL)**

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent no.1 to enroll the petitioner with her date of birth as per birth certificate instead of as per school record i.e., 15.10.2007.

2. Learned counsel for the petitioner has submitted that the actual date of birth of the petitioner is 15.10.2009 and in support of the same, he has referred to the birth certificate (Annexure P-1) issued by the Department of Health, Municipal Corporation, Chandigarh. It is further submitted that the deceased father of the petitioner, who was suffering from brain tumor and serious ailments at the time of admission of the petitioner, had mentioned the date of birth of the petitioner as 15.10.2007 on account of inadvertence. It is further submitted that the date of birth of the petitioner

even in the passport is 15.10.2009 and said difference between the date of birth of the petitioner will create difficulties for her in the future.

3. Learned counsel for respondent no.2 has submitted that the last date for submitting the list of candidates is 28.09.2023 and all the parents have signed the said list except the mother of the present petitioner. It is further submitted that since earlier, an affidavit was given by father of the petitioner stating that her date of birth is 15.10.2007 and further action was taken by the school on the said basis, thus, it is not possible for the school to change the said date of birth without a decree of a civil court. It is also submitted that in case the mother of the petitioner would not sign the list of candidates, then the whole process for sending the list would be delayed and would cause irreparable loss to the students.

4. Learned counsel for the petitioner has, in view of the stand taken by learned counsel for respondent no.2, fairly submitted that he seeks to withdraw the present petition with liberty to file a civil suit / any other alternative remedy, in accordance with law. It is further submitted that the mother of the petitioner does not want to come in the way of the examination process of all the students being delayed and thus, without admitting and diluting her claim to the effect that the date of birth of the petitioner is 15.10.2009, is ready to sign the said list of candidates but has prayed that the same should not be treated as estoppel against her in any proceedings.

5. Learned counsel for respondent no.2 has fairly submitted that any such signature by mother of the petitioner on the list of candidates showing the date of birth of the petitioner as 15.10.2007 would not be treated as estoppel against the petitioner from pressing her claim before the civil court to the effect that the date of birth of the petitioner is 15.10.2009.

6. In view of the above, the present petition is dismissed as withdrawn with liberty to the petitioner to institute a civil proceeding / other proceeding available to her in law.

7. It is made clear that in case the mother of the petitioner signs on the list of candidates in which the date of birth of the petitioner is shown as 15.10.2007, then the same would not be treated as estoppel against her from pressing her claim to the effect that the date of birth of the petitioner is 15.10.2009 as the said signatures are being made by the mother of the petitioner without prejudice her rights and only to help respondent no.2-school in submitting the list of candidates for which the last date is 28.09.2023.

(VIKAS BAHL)
JUDGE

September 25, 2023.
Davinder Kumar

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