

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

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**2023:PHHC:164608
CWP No.24216 of 2023
Date of Decision:21.12.2023**

Shamsher Singh

....Petitioner

VS.

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Khushkaran K. Goyal, Advocate
for the petitioner

Mr. Amit Sharma, Senior Panel Counsel for
Ms.Shweta Nahata, Senior Panel 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 31.07.2014 which is valid upto 30.07.2024. In the passport, date of birth of the petitioner was recorded as 02.04.1992. The petitioner has applied for re-issuance of passport with correct date of birth. As per petitioner his correct date of birth is 04.05.1993. The petitioner is relying upon birth certificate dated 01.08.2023 issued by Registrar (Births & Deaths), 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 Union of India submits that passport was issued to the petitioner on the basis of documents submitted by him. The date of birth at this belated stage cannot be corrected. Thus, the delay has dis-entitled him from any relief.

He 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, titled as '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 a correct date of birth.

(JAGMOHAN BANSAL)
JUDGE

21.12.2023

paramjit

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