

341 **16.05.
2023**

Ct. No. 04

Ab

CPAN 1275 of 2022

Sri Amal Kumar Bera

Vs.

Sri Subrata Ghosh and others.

Mr. Subrata Ghosh.

... for the applicant.

Ms. Koyeli Bhattacharya.

... for the alleged contemnor.

Re: CPAN 1275 of 2022.

The present contempt application is taken out alleging willful and deliberate violation of an order dated 12th April 2022 passed in connection with MAT 257 of 2022.

The gamut of dispute pertains to a correction of date of birth in the service record. The Division Bench observed that an attempt to correct the date of birth in the service record was belated and such belated application does not deserve to be entertained and proceeded to dispose of the said matter. However, an observation was made that in the event it is found that the mistake has been committed by the department, it is open to the department to rectify the mistake, if they found to be so. The word “department” has been construed by the applicant to be the board or the department of the Government.

The Counsel appearing for the alleged contemnor submits that the service book was prepared by the School at the time of joining the service and if the date of birth is recorded therein i.e. done by the School Authorities, the word “department” has to be construed as the department of the school and not of the Government instrumentality.

We further found the observations made in the order dated 12th April 2022 in tune with the aforesaid

stand. Furthermore, the applicant tried to draw our attention to a letter dated 17th November 2016 issued by the Sub-Inspector of Schools, Mugaberia Circle, Purba Medinipur, issued by the District Inspector of School (Primary Education) Tamluk, Purba Medinipur, wherein the recommendation is made for rectification of the date of birth.

The aforesaid letter was taken into consideration by the Division Bench while disposing of the Mandamus Appeal and it is categorically observed that though it created an initial impression in the mind of the Division Bench to interfere with the order, but after noticing the Memorandum dated 24th January 2012, wherein a timeline is set up in this regard, the Division Bench observed that any recommendation, which runs counter to the said Memorandum, neither creates any special right into the applicant nor it is presumed to have accrued certain rights in him. If the Court has already considered the said document and did not find the same in tune with the Memorandum dated 24th January 2012, we do not find that non-consideration of the said document invites an action to be taken against the alleged contemnors.

There was no direction passed by this Court for correction of the date of birth, as this Court dismissed the application in this regard, on the basis of the Memorandum dated 24th January 2012. We do not find any contumacious act having done by the alleged contemnors.

The contempt application is devoid of merit and the same is dismissed.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)

