



W.P.(MD)No.16333 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.11.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.16333 of 2024

S.Venkatesan

... Petitioner

Vs.

1.The Director of School Education,
O/o.The Director of School Education,
DPI Campus,
College Road,
Chennai-6.

2.The Secretary,
Board of Higher Secondary Education,
Department of Government Examinations,
Chennai-6.

3.The Secretary,
Board of Secondary Education,
Department of Government Examinations,
Chennai-6.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to alter the date of birth of the petitioner entered in the Secondary School Leaving Certificate, Higher Secondary Course Certificate as 30.12.1987 instead of 30.05.1987 in consonance with the Birth Certificate within the time period stipulated by this Court.



W.P.(MD)No.16333 of 2024

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For Petitioner
For Respondents

: Mr.T.Aswin Raja Simman
: Mr.J.Ajmal Khan
Government Advocate

ORDER

This writ petition has been filed to direct the respondents to alter the date of birth of the petitioner entered in the Secondary School Leaving Certificate and Higher Secondary Course Certificate as 30.12.1987 instead of 30.05.1987 in consonance with the Birth Certificate.

2. Heard the learned counsel on both sides and carefully perused the entire materials available on record.

3. When the matter came up hearing, Mr.J.Ajmal Khan, learned Government Advocate appearing for the respondents relying upon the Government Order in G.O.Ms.No.177 School Education Department, dated 23.12.2021 submitted that the corrections of date of birth in SSLC certificate and HSC certificate is permissible only on two circumstances. If the petitioner falls in any one of the said category, the petitioner's request can be considered.



W.P.(MD)No.16333 of 2024

4. The relevant portion of the Government Order in G.O.Ms.No.177

School Education Department, dated 23.12.2021 is extracted hereunder:-

"i. Category-1 With regard to the first category whenever a request for alteration of date of birth in the SSLC Book is made by a person who continues to be a student of the Secondary School, the Government directs that the Director of School Education should consider the application for alteration of date of birth and pass orders on merits. The applicant has to let in evidence in support of the application and the onus to establish that the original entry was wrong is on the applicant. The Director of School Education should examine the evidence that is placed before him and pass orders.

ii. Category.2- With regard to the applications for alteration of the date of birth in respect of persons who have ceased to be students, in G.O.(Ms) No.39, Education dated 12.01.1944, the Government authorized the Director to order corrections at any time in the date of birth as recorded in the SSLC book in the following circumstances.

When an obviously absured entry has to be set right and

When a Civil Court directs correction in any individual cases."

5. A careful perusal of the petitioner's document would reveal that the petitioner would obviously fall under the second category. This Court has



W.P.(MD)No.16333 of 2024

already dealt with the similar issue in W.P.No.23716 of 2014, dated 03.03.2015

wherein, a favourable order has been passed to the petitioner therein and the relevant portion of the said order is extracted hereunder:-

"5.The very same issue came up for consideration before this Court in W.P.(MD) No.9340 of 2009 dated 18.09.2012. An identical prayer was made to rectify the date of birth in the petitioner's service records. The respondent Government took a stand that in view of Rule 5 of the Tamil Nadu Secondary School Certificate Rules, the request for correction of date of birth cannot be considered after the pupil have left the school. This Court after elaborately considered the Government Orders and taking note of other decisions on the point, allowed the Writ Petition and directed the respondent to consider the birth extracts and other records of the petitioner while considering his representation and making necessary changes in the date of birth as in the Secondary grade School Leaving Certificate and Higher Secondary grade School Leaving Certificate and other certificates. The petitioner therein was given liberty to make representation to the respondents along with the copy of the order. At this stage it would be beneficial to refer to the operative portion of the order.

27.The Tamil Nadu Registration of Births and Deaths Rules, 2000 have come into force with effect from 01.01.2000. Rule 11, deals with the correction or cancellation of entry in the register of births and deaths under Section 15 and that the same is extracted hereunder:

"11.Correction or cancellation of entry in the register of births and deaths under Section 15:(1)If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him and if the register is in his possession, the Registrar shall enquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or cancelign the entry) as provided in section 15 and shall in the case of local authorities specified in column (1) of the Table below, send an



WEB COPY



W.P.(MD)No.16333 of 2024

extract of the entry showing the error and how it has been corrected to the officer specified in column (2) thereof.

Local Authorities(1) Officers(2) Village Panchayat Village Panchayat President Town Panchayat Executive Officer Cantonment Executive Officer Municipality Commissioner Corporation Commissioner Neyveli Lignite Corporation Chief Health Officer (2)In the case referred to in sub-rule(1), if the register is not in his possession, the Registrar shall make a report to the officer specified in the Table in sub-rule (1) and call for the relevant register and after enquiring into the matter, if he is satisfied that such error has been made make necessary correction.

(3)Any such correction as mentioned in sub-rule(2) shall be countersigned by the officer specified in the Table in sub-rule (1) in this behalf when the register is received from the Registrar.

(4)If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case. (5)Notwithstanding anything contained in sub-rules (1) and (4), the Registrar shall make a report of any correction of the kind referred to therein giving necessary details to the officer specified in the Table in sub-rule(1) (6)If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been fraudulently or improperly made, he shall make a report giving necessary details to the officer authorised by the Chief Registrar by general or special order in this behalf under Section 25 and on hearing from him take necessary action in the matter. (7)In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information under section 8 or section 9".

28. Reading of the statutory provisions makes it clear that the Act provides for correction or cancellation of entry in the register of births and deaths. The decision relied on by the respondents in their counter affidavit rendered in W.P.No.4244 of 1965, dated 26.10.1965 and reported in 1966 MLJ 80, is prior to the introduction of [Registration of Births and Deaths Act, 1969](#) and the rules framed thereunder.

29. Subsidiary Rule 5 of the Secondary School Leaving Certificate scheme, relied on by the respondents to contend that the application for



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alteration in the date of birth will not be entertained after a pupil had completed his course or appeared for the S.S.L.C public examination also is much earlier to the advent of the [Registration of Births and Deaths Act, 1969](#) and the rules framed thereunder. Needless to say that the provisions of any Central Act, will prevail over the State Act or the rules or regulations, framed by the latter, on the same subject. When the statutory provisions stated supra, enable the competent authorities under the [Registration of Births and Deaths Act, 1969](#), to make correction or cancellation as the case may be, the contention of the respondents that no alteration is permissible in the school records, after the student leaves the secondary education cannot be countenanced.

30.As stated supra, as per the birth certificate issued by the Sub Registrar, Thiruvattar enclosed in the typed set of papers, the name of the child entered in the said certificate is S.Rajesh Kumar. The date of birth has been shown as 19.01.1975. When the statute provides for correction or cancellation of an entry in the register of births and deaths maintained by the Sub Registrar after coming into force of the Act, the said certificate can be relied on for making necessary changes in public records which includes the records maintained in the office of the Director of Government Examinations Chennai. The contention of the respondents that the said correction can be made only before the student leaves the school and not later, cannot be accepted for the reason that any entry in the birth certificate by virtue of registration or alteration or cancellation by the competent authority under the [Registration of Births and Deaths Act, 1969](#), has to be given effect to otherwise, the purpose for registration or alteration or modification would be defeated. There cannot be different entries in the public records maintained by different authorities, one under the [Registration of Births and Deaths Act, 1969](#) and the other by the educational authorities. The date of birth as entered in the birth extract has to be entered in all the public records uniformly, unless and until any statutory rules, restrict such entry, like in the case of a Government servant, governed by the Tamil Nadu State and Subordinate Services Rules. In the light of the above discussion, this Court is not inclined to accept the objections of the educational authorities made on the basis of the Subsidiary rules framed before the introduction of the Central Act, 1969.

31.In the light of the decision made in W.P.No.9800 of 2009, dated 21.10.2009 in R.Deepak Vs.The Chairman Tamil Nadu Uniform Service Recruitment Board, Chennai and two others, the certificate issued by the competent authority under [Registration of Births and Deaths Act, 1969](#), and other supporting documents relied on by the present writ petitioner has to be considered.



W.P.(MD)No.16333 of 2024

32. For the foregoing reasons, the writ petition is allowed. There shall be a direction to the respondents to consider the birth extract and other evidence produced by the petitioner while considering his representation, dated 03.09.2009 and make necessary changes, in the date of birth as 19.01.1975 in the Secondary School Leaving Certificate and the Higher Secondary Course and other certificates. The petitioner is at liberty to make a representation to the respondents along with a copy of this order and that he shall produce the original certificates for making necessary corrections. No costs."

6. In view of the above, this Court direct the petitioner submit a fresh representation to the school, where the petitioner studied, in this regard. On receipt of the same, the concerned school authority shall forward the same to the concerned Chief Educational Officer. On receipt of the same, the concerned Chief Educational Officer is directed to forward the same to the first respondent and after receipt of the same, the first respondent is directed to consider the same and pass orders in terms of G.O.Ms.No.177 School Education Department, dated 23.12.2021 and effect necessary changes of date of birth of the petitioner in the SSLC certificate and HSC certificate, within a period of six weeks thereafter.

7. With the above direction, the writ petition stands disposed of. No costs.

28.11.2024

NCC : Yes / No
Index : Yes / No
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W.P.(MD)No.16333 of 2024

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W.P.(MD)No.16333 of 2024

L.VICTORIA GOWRI, J.

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Order made in
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