



2024:DHC:3098



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3578/2024**

REWANT AHLAWAT

..... Petitioner

Through: **Ms. Rajul Jain, Advocate**

versus

**CENTRAL BOARD OF SECONDARY
EDUCATION**

..... Respondent

Through: **Ms. Manisha Singh, Advocate**

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

16.04.2024

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1. By this writ petition, the petitioner seeks what he claims to be a correction in his date of birth as recorded in the Secondary School Examination Certificate issued by the Central Board of Secondary Education (CBSE) after the Class X board examination of the petitioner. In the said certificate, the petitioner's date of birth is recorded as 14 September 2000. The petitioner claims that his date of birth is 14 September 1999. He, therefore, seeks that the Secondary School Examination Certificate issued by the CBSE be corrected accordingly.

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2. I have heard Ms. Rajul Jain, learned counsel for the petitioner and Ms. Manisha Singh, learned counsel for the CBSE, at some length.

3. Ms. Jain submits that, about a year after the Petitioner was born, the petitioner's father's car was stolen and that the original birth certificate of the petitioner was one of the documents which was lost in the process. It is submitted that the petitioner's father thereafter applied to the Government of National Capital Territory of Delhi (GNCTD) for issuance of a fresh birth certificate. There is no dispute about the fact that in the said fresh birth certificate, the date of birth of the Petitioner is recorded as 14 September 2000. Incidentally, the place of birth of the petitioner also recorded in the said Birth Certificate as Police Quarter, Naraina.

4. On the basis of this birth certificate, the date of birth of the petitioner came to be recorded, in the Secondary School Examination Certificate issued by the CBSE, as 14 September 2000.

5. Thereafter, after graduating from the National Defence Academy, the Petitioner joined the Indian Military Academy in 2021-2022. On 21 July 2023, the petitioner claims to have visited the Passport Sewa Kendra, Pune for obtaining a passport. It is averred that the Passport authorities informed the Petitioner that an earlier passport stood issued in his name in 2000, in which the Petitioner's date of birth was mentioned as 14 September 1999. Ms. Jain submits that, thereafter the Petitioner accessed the website of the MCD, wherefrom a copy of the original "correct" birth certificate recording the

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petitioner's date of birth as 14 September 1999 was sourced.

6. On the basis of this second birth certificate, the Petitioner has moved this Court for a direction to the CBSE to issue a fresh Secondary School Examination Certificate to the petitioner reflecting the date of birth of the Petitioner as 14 September 1999.

7. Ms. Jain submits that a comparison of the birth certificates issued by the GNCTD, which erroneously reflects the petitioner's date of birth as 14 September 2000, with the birth certificate issued by the MCD, which correctly reflects the Petitioner's date of birth as 14 September 1999, would suffice to persuade this court that the latter certificate issued by the MCD is more credible and acceptable. Among other aspects, she submits that the birth certificate issued by the MCD also mentions the hospital where the petitioner was born.

8. She also submits that the Passport Office has accepted the date of birth of the petitioner as 14 September 1999.

Analysis

9. On the aspect of correction of date of birth, the Supreme Court has set the last word atleast till now in its judgment in *Jigyada v. CBSE*¹. Paras 160 to 163 and 175-176 of the report in that case may be reproduced thus :

“160. The conditions regarding “correction” in name or date of birth are not as stringent as conditions applicable to change



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thereof. For correction in name, the 2018 Bye-laws provide for a limitation period of five years and permit such corrections that can be characterised as typographical, factual or spelling mistake in comparison with school records. Understandably, a correction would mean retention of the original record with slight modification to make it consistent with the school records. This requirement of modification could be born out of various reasons, namely, typographical mistake at the time of publishing, spelling error or factual error i.e. an error of fact as it existed at the time when the certificate was published. Thus, correction in name is done to bring unanimity between the school records (as they existed at the time of sending information to the Board) and CBSE certificates. However, if school records are altered afterwards and Board is called upon to alter its certificates in light of the updated school records, the same cannot be termed as correction per se but would be in the nature of recording change. Therefore, substantially deviating from a “correction”, the Bye-laws provide for an option to “change” the name, which is subject to different conditions.

161. Similar provision is available for “correction” in date of birth, either on the basis of school records or on the basis of order of court. The word “change” is not used for date of birth as, unlike name, there can only be one date of birth and there can only be a correction to make it consistent with school record or order of court. It cannot be changed to replace the former with a fresh date of one's choice. Be it noted, provisions relating to correction in date of birth and name are just and reasonable and do not impose any unreasonable restriction on permissibility of corrections. The restriction regarding limitation period shall be examined later, along with other provisions.

162. The provision for “change” of name is far more stringent and calls for a thorough review to settle the correct position. As per the present law, change of name is permissible upon fulfilment of two prior conditions — prior permission of the court of law and publication of the proposed change in Official Gazette. These conditions co-exist with another condition predicating that both prior permission and publication must be done *before the publication of result*. What it effectively means is that change of name would simply be impermissible after the publication of result of the candidate even if the same is permitted by a court of law and published in Official Gazette. In other words, once the examination result of the candidate has been published, the Board would only permit corrections in name mentioned in the certificate. Further, changing the name out of free will is simply ruled out.

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163. Notably, the cases before us pertain to different periods. As aforesaid, the CBSE Bye-laws which existed prior to 2007 were different. The summary of the journey of the Examination Bye-laws from 2007 till 2018 has been tabulated hitherto. The distinction between “correction” and “change” was always well demarcated including prior to 2007. As regards the correction which could mean to carry out modification to make it consistent with school record but when it came to request for change of name of the candidate or his parents, that could be done only after complying with the preconditions specified therefor. However, when it came to change in the date of birth that was completely prohibited. *Only correction regarding date of birth was permitted to be made consistent with the school record. And for which limitation of two years from declaration of result was specified. The requirement of two years cannot be considered as unreasonable restriction. The candidate and his parents are expected to be vigilant and to take remedial measures immediately after declaration of result of the candidate. That too for being made consistent with school record.* The Board must follow the discipline of continuation of entries in the school record as it is vital for pursuing further and higher education including career opportunities by the candidate. Significantly, the position as obtained prior to 2007 did not provide for any time limit within which correction of candidate's name or of his parents was to be pursued. *These restrictions are certainly reasonable restrictions while recognising the enabling power of the Board to alter its record in the form of certificates issued to the candidate concerned to make it consistent with the school records or otherwise.*

175. Considered in the context of the bye-laws, the controversy is actually simple in nature. The bye-laws consistently provide that the period of limitation is to be calculated from the date of declaration of the result and issue of certificate. *It means that the period of limitation begins to run against the student after declaration of result and publication of certificates as the student is put to notice of the contents of the document, upon its issue.* The student can now be said to be in a position to verify the correctness of the certificate(s). *The irresistible outcome of this legal position is that the bye-laws existing on the date of such declaration/publication of result and issue of certificate would be relevant for the purpose of effecting changes in the certificates. The express language of the bye-laws would be defeated if we say that the law existing on the date of application for recording change would be relevant. That would negate the very importance of having a period of limitation for correction of the certificates.*

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176. If the limitation of applicability of bye-laws was to be reckoned from the date of application for correction/change and not the date of result of the examination conducted by CBSE, we would be leaving things to a state of uncertainty. For, a student who could possibly have surpassed the limitation period under unamended bye-laws would regain the right to change the certificates if the bye-laws existing on the date of application permit so and provide for a longer period. Similarly, a student who had ten years for carrying out changes under the unamended bye-laws would lose her right if bye-laws are amended within the ten-year period so as to provide for a much shorter, say two years, limitation period. Certainty, consistency and predictability are the hallmarks of any legal relationship and it is in the interest of public policy that legal interpretation preserves and protects these hallmarks. This determination, however, is only to state the legal position and may not have any immediate bearing on the cases before us.”

(Emphasis supplied)

10. Thus, the Supreme Court has clearly accorded its imprimatur to the fixation of a time period by the CBSE in its bye-laws, within which the correction in date of birth can be sought. It has been held that fixing of such a time period is reasonable and has to be respected. The Supreme Court has also held that the bye-laws which would be applicable would be the bye-laws in force on the date when the certificate, in which the correction is being sought, was issued.

11. In the present case, the certificate, in which correction was being sought, was issued on 28 May 2016.

12. The notified procedure for change of date of birth, as in force on that date, is to be found in Notification No. CBSE/Coord/EC-31-03/2015 dated 25 June 2015, issued by the CBSE. Said Notification permits any application for correction of date of birth *duly forwarded*

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by the Head of the School in which the candidate was studying, only within one year of the date of declaration of the result. This period of one year is, therefore, by application of the judgment in *Jigyada*, sacrosanct.

13. Besides, the application for correction of date of birth is required to be forwarded by the Head of the School in which the candidate was studying at that point of time. The petitioner has never approached either the school in which he was studying or the CBSE before approaching this Court. The Petitioner has not even chosen to implead the school in these proceedings, for reasons best known to the petitioner.

14. The relevant clause (iv), in S. No. 69.2 of the table contained in in the CBSE Notification dated 25 June 2015, may be reproduced as under :

“(iv) The application for correction in date of birth duly forwarded by the Head of School alongwith documents mentioned in byelaws 69.2(iii) shall be entertained by the Board only within one year of the date of declaration of result. No correction whatsoever shall be made on application submitted after the said period of one year.”

15. Apart from the fact that the Petitioner has not submitted any application to the CBSE for correction of the date of birth in accordance with the protocol envisaged in the afore-extracted clause (iv) in S. No. 69.2 of the Notification dated 25 June 2015, the prayer for change of date of birth is in any case, barred by time as the petitioner is seeking a change of the date of birth as recorded in the

Secondary School Examination Certificate issued by the CBSE on 28

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May 2016, eight years after the certificate was issued.

16. Ms. Jain, learned counsel for the Petitioner, sought to contend that the period of one year applies only to correction, by the CBSE, of the date of birth. It does not place an embargo on a court of law, much less a court exercising jurisdiction under Article 226 of the Constitution of India, in passing corrective orders if the court is satisfied that the prayer is justified.

17. I cannot agree.

18. Accepting Ms. Jain's proposition would create a very unsavoury precedent in which the court, under Article 226, can bypass the period of limitation stipulated by the CBSE in its Notification. It is a well settled principle of law that law does not permit the doing, indirectly, of something which cannot be done directly.² I am not, therefore, persuaded to accept Ms. Rajul Jain's contention that in exercise of the jurisdiction vested in this Court by Article 226 of the Constitution of India, I can direct the CBSE to correct the date of birth in the Petitioner's Secondary School Examination Certificate eight years after the certificate was issued, where the petitioner would not have been able to obtain such correction had the petitioner approached the CBSE instead of directly petitioning this Court.

19. That apart, even on merits, no case for correction is made out. The Court has, before it, two birth certificates. Both certificates have been issued by governmental authorities, one by the MCD and the

² Refer **Dayal Singh v. U.O.I., (2003) 2 SCC 593, V.B. Prasad v. Manager, P.M.D.U.P. School, (2007) 10 SCC 269, Basavaraj v. Indira, 2024 SCC OnLine SC 208**



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other by the GNCTD. They reflect different dates of birth and also reflect different places of birth of the petitioner. The mere fact that the certificate issued by the MCD states that the Petitioner was born in Jaipur Golden Hospital cannot be a basis for this Court to choose that certificate over the certificate issued by the GNCTD. Ms. Rajul Jain has not been able to advance any convincing argument, which would go to discredit the certificate issued by the GNCTD as incorrect or false. There is also no reason why the father of the petitioner would furnish an incorrect date of birth of the petitioner while applying for the birth certificate from the GNCTD.

20. Moreover, the petitioner has not produced any other public document to support his case that his date of birth should be treated as 14 September 1999. All he has with him are two discordant birth certificates, both issued by governmental authorities, and the entreaty, to this Court, to choose one over the other.

21. In any event, this Court, in exercise of the jurisdiction vested in it by Article 226 of the Constitution of India cannot delve into this factual thicket. The Court cannot, in exercise of writ jurisdiction, adjudicate on disputed issues of fact.

22. On merits too, therefore, it cannot be said that the Petitioner has made out a case for issuance of a mandamus to the CBSE to issue a fresh Secondary School Examination Certificate, reflecting the petitioner's date of birth as 14 September 1999.

23. For all the aforesaid reasons, this writ petition fails and is

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accordingly dismissed, with no orders as to costs.

C.HARI SHANKAR, J

APRIL 16, 2024/yg

Click here to check corrigendum, if any

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