

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5514 of 2025

Asfar Mahin Ansari Son of Md. Zeya Equbal, Resident of Bahadurganj, P.O. and P.S- Laheriasarai, VTC- Dumduma, District- Darbhanga.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, Govt. of India, New Delhi.
2. The Secretary, Ministry of Home Affairs, Govt. of India, New Delhi.
3. The Secretary, Ministry of External Affairs, Govt. of India, New Delhi.
4. The Regional Passport Officer, Patna, Maurya Lok Complex, D-Block, P.S.- Kotwali, District- Patna.
5. The Deputy Passport Officer, Patna, Maurya Lok Complex, D-Block, P.S.- Kotwali, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rajat Kumar Tiwary Mrs.Deepika Sharma
For the Respondent/s	:	Mr.Subodh Kumar Jha, Sr. CGC Mr.Ram Tujabh Singh, CGC

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL JUDGMENT

Date : 16-03-2026

In the instant petition, petitioner has prayed for the following relief(s):-

“(i) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing and setting aside the letter dated 20.12.2024 issued by the Deputy Passport Officer, Regional Passport Office, Patna, whereby the application of the Petitioner for issuance of passport has been arbitrarily refused. (Annexure- 14)

(ii) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus commanding the Respondent authorities, particularly the Respondent No. 4 (Regional Passport



Officer, Patna), to process and issue the passport to the Petitioner based on the valid Birth Certificate issued by the competent authority, i.e., the Registrar (Births & Deaths), Darbhanga Municipal Corporation, Darbhanga recording the date of birth of the Petitioner as 18.03.2001, without placing reliance on the cancelled Birth Certificate dated 23.08.1998.

(iii) To hold and declare that the Respondent authorities are bound to act upon the corrected and valid Birth Certificate issued by the statutory authority, and have no jurisdiction to question on the correctness of the said document.

(iv) To hold and declare that the arbitrary refusal to issue passport to the Petitioner is violative of Articles 14, 19 and 21 of the Constitution of India, including the Right to Travel Abroad, Right to Livelihood, and Right to Personal Liberty as interpreted by the Hon'ble Supreme Court in Maneka Gandhi vs. Union of India and Satwant Singh Sawhney vs. D. Ramarathnam.

(v) To hold and declare that the refusal to consider the corrected Birth Certificate and reliance on the earlier cancelled Birth Certificate is wholly arbitrary, illegal, and without jurisdiction.

(vi) For any other relief/reliefs to which the Petitioner may be found entitled to by this Hon'ble Court.”

2. Counsel for the petitioner submits that the mother of the petitioner, namely, *Rukhsana Parween* had applied for the issuance of birth certificate in respect of this petitioner in the year 1998 before Darbhanga Municipal Corporation pursuant thereto a birth certificate was duly issued by the Darbhanga Municipal



Corporation bearing Registration No. 1254 dated 28.08.1998, recording the date of birth of the petitioner as 18.03.1998.

3. It is next submitted that in the year 1999, the mother of the petitioner had applied for the issuance of a Passport on the basis of such issuance of birth certificate. However, no document including Passport was ever received by the petitioner or his family member from the passport office. It is stated that petitioner subsequently applied for the issuance of birth certificate before the Darbhanga Municipal Corporation, against which certificate *vide* Registration No. 13976(D) dated 22.08.2013, was issued by the Registrar (Birth & Death), Darbhanga Municipal Corporation, recording the date of birth of the petitioner as 18.03.2001.

4. It is next submitted that this date of birth is also recorded in the matriculation certificate issued by the Central Board of Secondary Education for the session 2013-2015 and this petitioner had appeared in the Secondary School Examination and a Grade Sheet-cum-Certificate of Performance was issued by the CBSE Board on 28.05.2015, recording the date of birth of the petitioner as 18.03.2001. It is the case of the petitioner that despite the date of birth is 18.03.2001 having been recorded in the matriculation certificate and the compendium of instructions of guidelines relating to the issue of passport in India issued by the



competent authority under Passport Act, 1967, and the rules made therein, which specifically provides that the change of date of birth can be made based on proof of birth by placing reliance on the transfer/school leaving/matriculation certificate issued by the school last attended/recognised educational board and despite such documents having been placed before the authorities for consideration, the impugned order has been passed contrary to the guidelines and as also the office memorandum as contained in Letter No. VI/401/2/5/2001 dated 26.11.2015 issued by Ministry of External Affairs, CPV Division, PV-I Section, which is specifically provided under Rule 4(iii) that reads as under:-

“The cases where the applicant comes to PIA for change/correction with regard to date of birth in the Passport after a period of five years from the date of issue of passport with alleged wrong date of birth, no such request shall be entertained/accepted by the PIA and be rejected out rightly.

However, an exemption in this regard may be given to an applicant who was minor at the time when passport with alleged wrong date of birth was issued to him. As and when such an applicant after attaining the age of majority applies for the passport with the request to change the date of birth in the passport issued to him when he was minor, the PIA irrespective of the duration of the issuance of passport may accept his case for consideration and if is satisfied with the claim and document(s) submitted by the applicant, may accept his



request for change of date of birth in the passport without imposition of any penalty.”

5. It is next submitted that, on attaining of majority, the request of change of date of birth can be made in the passport and accordingly, in view of the instructions issued *vide* letter dated 26.11.2015, the petitioner is said to have made such request within the stipulated period as indicated in the letter issued by the Ministry of External Affairs, Govt. of India, which has not been considered as would be evident from the impugned order.

6. Counsel for the petitioner further submits that the issues which had already been made by the Co-ordinate Bench in the case of ***Nida Amina Ahmad vs. Union of India & Ors.*** passed in CWJC No. 16471 of 2021 and as also judgment passed by Hon'ble Justice A.M. Khanwilkar similar issues in the case of ***Jigya Yadav (Minor) (Through Guardian/Father Hari Singh) vs. Central Board of Secondary Education & Ors.*** reported in **(2021) 7 SCC 535**, the relevant paragraph of the aforesaid judgment is re-produced hereunder:-

*“193. The first is where the incumbent wants “**correction**” in the certificate issued by the CBSE to be made consistent with the particulars mentioned in the school records.*

193.1. As we have held, there is no reason for the CBSE to turn down such request or attach any precondition except reasonable period of limitation and keeping in mind the



period for which the CBSE has to maintain its record under the extant regulations. While doing so, it can certainly insist for compliance of other conditions by the incumbent, such as, to file sworn affidavit making necessary declaration and to indemnify the CBSE from any claim against it by third party because of such correction. The CBSE would be justified in insisting for surrender/return of the original certificate (or duplicate original certificate, as the case may be) issued by it for replacing it with the fresh certificate to be issued after carrying out necessary corrections with caption/annotation against the changes carried out and the date of such correction. It may retain the original entries as it is except in respect of correction of name effected in exercise of right to be forgotten. The fresh certificate may also contain disclaimer that the CBSE cannot be held responsible for the genuineness of the school records produced by the incumbent in support of the request to record correction in the original CBSE certificate. The CBSE can also insist for reasonable prescribed fees to be paid by the incumbent in lieu of administrative expenses for issuing fresh certificate.

193.2. *At the same time, the CBSE cannot impose precondition of applying for correction consistent with the school records only before publication of results. Such a condition, as we have held, would be unreasonable and excessive. We repeat that if the application for recording correction is based on the school records as it obtained at the time of publication of results and issue of certificate by the CBSE, it will be open to CBSE to provide for reasonable limitation period within which the application for recording correction in certificate issued by it may be entertained by it. However, if the request for recording change is based on changed school records post the publication of results and issue of certificate by the CBSE,*



the candidate would be entitled to apply for recording such a change within the reasonable limitation period prescribed by the CBSE. In this situation, the candidate cannot claim that she had no knowledge about the change recorded in the school records because such a change would occur obviously at her instance. If she makes such application for correction of the school records, she is expected to apply to the CBSE immediately after the school records are modified and which ought to be done within a reasonable time.

193.3. *Indeed, it would be open to the CBSE to reject the application in the event the period for preservation of official records under the extant regulations had expired and no record of the candidate concerned is traceable or can be reconstructed. In the case of subsequent amendment of school records, that may occur due to different reasons including because of choice exercised by the candidate regarding change of name. To put it differently, request for recording of correction in the certificate issued by the CBSE to bring it in line with the school records of the incumbent need not be limited to application made prior to publication of examination results of the CBSE.*

194. *As regards request for “change” of particulars in the certificate issued by the CBSE, it presupposes that the particulars intended to be recorded in the CBSE certificate are not consistent with the school records. Such a request could be made in two different situations. The first is on the basis of public documents like birth certificate, Aadhaar card, election card, etc. and to incorporate change in the CBSE certificate consistent therewith. The second possibility is when the request for change is due to the acquired name by choice at a later point of time. That change need not be backed by public documents pertaining to the candidate.*



194.1. Reverting to the first category, as noted earlier, there is a legal presumption in relation to the public documents as envisaged in the 1872 Act. Such public documents, therefore, cannot be ignored by the CBSE. Taking note of those documents, the CBSE may entertain the request for recording change in the certificate issued by it. This, however, need not be unconditional, but subject to certain reasonable conditions to be fulfilled by the applicant as may be prescribed by the CBSE, such as, of furnishing sworn affidavit containing declaration and to indemnify the CBSE and upon payment of prescribed fees in lieu of administrative expenses. The CBSE may also insist for issuing public notice and publication in the Official Gazette before recording the change in the fresh certificate to be issued by it upon surrender/return of the original certificate (or duplicate original certificate, as the case may be) by the applicant. The fresh certificate may contain disclaimer and caption/annotation against the original entry (except in respect of change of name effected in exercise of right to be forgotten) indicating the date on which change has been recorded and the basis thereof. In other words, the fresh certificate may retain original particulars while recording the change along with caption/annotation referred to above (except in respect of change of name effected in exercise of right to be forgotten).

194.2. However, in the latter situation where the change is to be effected on the basis of new acquired name without any supporting school record or public document, that request may be entertained upon insisting for prior permission/declaration by a court of law in that regard and publication in the Official Gazette including surrender/return of original certificate (or duplicate original certificate, as the case may be) issued by CBSE and upon payment of prescribed fees.



The fresh certificate as in other situations referred to above, retain the original entry (except in respect of change of name effected in exercise of right to be forgotten) and to insert caption/annotation indicating the date on which it has been recorded and other details including disclaimer of CBSE. This is so because the CBSE is not required to adjudicate nor has the mechanism to verify the correctness of the claim of the applicant.”

7. On the other hand, Respondent Nos. 1 to 5 submits that since the application for change of date of birth has already been closed, after passing the impugned order, which evidently shows that there is non-consideration of the instructions and guidelines issued under the Passport Act, 1967 and as also the office memorandum issued by the Ministry of External Affairs, the petitioner may be directed to file fresh application with all supported materials for consideration, which shall be considered within the time so framed by this Court, in view of law laid down by the Hon'ble Apex Court.

8. Considering the fact that issues have already been considered and the impugned order does not show any consideration of office memorandum dated 26.11.2015 as contained in Annexure-P/4, and the guidelines to issue a passport in India or abroad said to have been issued under Passport Act, 1967 and the rules made therein, in the impugned order dated 20.12.2024 is set aside.



9. Consequently, Regional Passport Officer, Maurya Lok Complex, Patna is directed to consider the case of this petitioner for issuance of fresh passport in reference to Annexure-P/4 and P/5 and as also by looking to the issues adjudicated by the Hon’ble Apex Court within a period of two weeks from today.

10. With the above observations, the instant writ petition stands disposed of.

(Ajit Kumar, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

