

06.02.2026
Item No.01
Court No.11
KCP
[Assigned]

MAT 653 of 2023
with
IA No. CAN 1 of 2023

Parayan Sarkar
- Versus -
The State of West Bengal & Others

Mr. Uday Narayan Betal,
Mr. Barun Chatterjee.
...for the Appellant

Mr. Kartik Chandra Kapas
...for the State respondents

Mr. Dwijadas Chakraborty.
...for the KMC

Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta,
Mr. Manas Bhattacharyya.
..... For the W.B.B.S.E.

Mr. Santanu Kumar Mitra,
Mr. Amartya Pal,
Mr. Mahek Jaiswal.
...for the W.B.C.H.S.E.

Mr. Sanjay Kumar Baid.
...for the respondent no.5

The present appeal has been preferred challenging an order dated 27.03.2023 passed by the learned single Judge in the writ petition being WPA 6903 of 2022.

Shorn of unnecessary details the facts are that the writ petitioner, namely, Parayan Sarkar (in short, Parayan) was admitted at St. Lawrence High School (in short, the school) in the year 2003 on the basis of the documents furnished by his parents. In the said documents submitted

at the time of admission, Parayan's date of birth was recorded as 01.05.97 and accordingly in the school's records his date of birth was incorporated as 01.05.97. Thereafter, Parayan completed his studies in the said school and passed the Secondary Examination conducted by the West Bengal Board of Secondary Education (in short, the Board) and the Higher Secondary Examination conducted by the West Bengal Council of Higher Secondary Education (in short, the Council) in the year 2013 and 2015 respectively. Subsequent thereto, on 12.03.2021, Parayan's father submitted a representation to the Principal of the school stating *inter alia* that the original birth certificate of Parayan was misplaced and the same could not be produced at the time of admission and as a consequence thereof, his date of birth was erroneously recorded as 01.05.97 in place and stead of 01.05.96 in the school records. Along with the said representation, the application submitted to the Board for correction of date of birth was also forwarded with a request to countersign and again by a representation dated 26.11.2021 it was intimated that Parayan's date of birth has been correctly incorporated as 01.05.96 in his Adhaar card and passport. However, the school authorities did not take appropriate steps and that as such Parayan preferred the writ petition which was dismissed with costs by the order impugned in the present appeal.

Mr. Betal, learned advocate appearing for Parayan submits that Parayan had passed his Secondary and Higher Secondary examinations securing high marks. His date of birth stands recorded as 01.05.96 in the certificate issued by the Nursing Home and also in the original birth certificate issued by the Calcutta Municipal Corporation as on 31.01.1997. The said document is an unimpeachable contemporaneous document in relation to his date of birth and the respondents ought to have acted on the basis of the same.

He argues that as the original birth certificate was misplaced and was not produced by his father at the time of admission, Parayan's date of birth was erroneously recorded as 01.05.1997 in the school, the Board and the Council. For the laches on the part of his parents, Parayan cannot be made to suffer. It is not a case that Parayan had reaped any benefit by having an erroneous date of birth incorporated in the school records. Unless necessary correction is effected on the basis of the original birth certificate, he would be facing insurmountable inconvenience. Such argument was glossed over by the learned single Judge and the writ petition was dismissed mechanically on the ground of delay. In support of the arguments advanced, reliance has been placed upon a judgment delivered in the case of *Roshni Chatterjee -vs- Council for the Indian School Certificate Examinations*, reported in 2012 SCC OnLine Cal 11628 and an

unreported order passed in a writ petition being WP 442 of 2019 (*Supratim Banick -vs- The Kolkata Municipal Corporation & Ors.*).

Mr. Baid, learned advocate appearing for the school denies the contention of Parayan and submits that fraud had been practiced upon the school authorities. Had the original date of birth, as alleged to be 01.05.96, would have been disclosed by Parayan's parent at the time of admission he would not have got admission in the school since the admission at that juncture was restricted to children born in between 01.01.1997 and 31.12.1997. His very entry in the school was, thus, illegal and the records cannot be corrected after more than two decades.

He further submits that Parayan is estopped from relying upon the birth certificate issued on 31.01.1997 at a later stage. The admission in school was based upon a date given by the candidate and he cannot take a different stand at this juncture and exercise of discretion in his favour would be an instance of grant of a premium to the illegalities practiced. In support of such contention reliance has been placed upon a judgment delivered by a Division Bench in the case of *Ambika Kaul -vs- Central Board of Secondary Education and Others*, reported in 2015 SCC OnLine P&H 1669.

Ms. Bhattacharyya, learned advocate appearing for the Board and Mr. Mitra learned advocate appearing for the Council submit that no proper application had been

submitted by Parayan before the Board and the Council complying with the conditions as required to be fulfilled and that as such, it cannot be argued that the Board and the Council had failed to discharge their statutory obligations.

When the matter was last heard on 02.01.2026, Mr. Chakraborty, learned advocate appearing for Kolkata Municipal Corporation (in short, KMC) was directed to file a report as regards the certificates annexed to the writ petition. Pursuant to such direction, a report has been placed stating *inter alia* that both the birth certificate wherein the date of birth has been recorded as 01.05.96 and the birth certificate wherein the date of birth has been recorded as 01.05.97 are available in the birth register. In both the said certificates the names of Parayan's parents, the residential address are the same but the names of the hospital/nursing home differs. Both the said certificates were issued on the basis of the applications submitted by Parayan's parents.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, a birth certificate issued by the competent authority is an unimpeachable contemporaneous document in relation to date of birth. The former birth certificate records the date of birth of Parayan to be 01.05.96 and the latter records his date of

birth to be 01.05.97. No reliance, in our opinion, can be placed upon the birth certificate issued on 05.12.2002 inasmuch as the said certificate has been issued in derogation to the provisions of Section 13(3) of the Registration of Births and Deaths Act, 1969 (in short, the 1969 Act) and suffers from a jurisdictional error and as such the Court cannot give imprimatur to a certificate which is void and has no statutory force. Credence needs to be granted to the original birth certificate issued by the competent authority on 31.01.1997. It is also not a case that Parayan would be earning an undue advantage by rectification of his date of birth. Such rectification would not be the basis for any employment or financial gain. The non-disclosure of appropriate documents at the time of Prayan's admission had prompted a procedural rigmarole and Prayan had been the worst sufferer.

In the said conspectus, the direction towards dismissal of the writ petition contained in the order impugned is set aside and the authorities of the school, the Board and the Council shall rectify their records by inserting 01.05.96 as the date of birth of Parayan.

Parayan shall submit his registration certificate, admit card, mark sheet and the pass certificate pertaining to the Secondary Examination and the Higher Secondary Examination to the Board and the Council within a period of three weeks. Upon receipt of the said original documents, authorities of the Board and the Council shall

issue fresh certificates upon due rectification of Parayan's date of birth within a period of six weeks thereafter.

The school authorities are also directed to extend all cooperation towards such rectification of the date of birth of Parayan.

As the entire dispute has arisen due to non-submission of appropriate documents at the time of Parayan's admission by his father, we do not interfere with the direction contained in the order impugned as regards payment of costs. Such costs shall be deposited within a period of three weeks from date.

It is further made clear that the present order has been passed considering the peculiar facts and circumstances of the case and the same shall not be treated as a precedent.

With the above observations and directions, the appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.)

(Tapabrata Chakraborty, J.)