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MAT 2075 of 2024
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IA No.: CAN 2 of 2024
Md. Saidur Rahman
- Versus -
The State of West Bengal & Others

Mr. Anirban Dutta,
Mr. Lal Ratan Mondal,
Mr. Probal Sarkar
... for the Appellant.
Mr. Sk. Md. Galib,
Ms. Subhra Nag
... for the State.
Mr. Nadeem Sulaiman
... for the Respondent nos.2 & 3.

The present appeal has been preferred challenging the judgment dated 23.08.2024 passed by the learned single Judge in a writ petition, being WPA 10798 of 2021. The said writ petition was preferred primarily praying for necessary direction upon the respondents, particularly the President, West Bengal Board of Madrasah Education (in short, the Board) to correct the date of birth of the writ petitioner, namely, Md. Saidur Rahman (in short, Saidur) erroneously recorded in the admit card issued by the Board as 11.03.1974 in place and stead of 11.03.1976, placing reliance upon the birth certificate issued on 31.12.2019 by the Sub-Registrar (Birth & Death) Sambalpur Gram Panchayat, Ratua-II Development Block, Malda.

Records would reveal that initially an order was passed in the writ petition on 04.10.2021 directing the

Criminal Investigation Department (in short, CID) to make a thorough enquiry into the issuance of such birth certificate by the Sambalpur Gram Panchayat, Ratua – II Development Block, Malda (in short, the said Panchayat) and to file a report in the form of an affidavit. Pursuant to such direction, a report was filed by the Deputy Superintendent of Police, CID and thereafter, the writ petition was finally heard and dismissed by the judgment impugned in the present appeal.

Mr. Dutta, learned advocate appearing for Saidur strenuously argues that in the report filed by the CID there is no specific finding that the birth certificate, issued by the Sub-Registrar (Birth & Death) of the said Panchayat, as annexed at page 50 of the stay application, was a suspicious document. In the absence of any such finding the learned single Judge ought not to have disbelieved the contention of Saidur since the said certificate is an unimpeachable contemporaneous document in relation to his date of birth.

Referring to the admit card of his elder brother, namely, Khaledur Rahaman (in short, Khaledur), as annexed at page 63 of the stay application, Mr. Dutta submits that Khaledur's date of birth was incorporated in the said admit card as 05.03.1974 and that as such it is beyond imagination that Saidur's date of birth can be 11.03.1974, as incorporated in his admit card issued by

the Board. Such incorporation of date of birth by the Board is *ex facie* erroneous. In the event the date of birth is corrected, Saidur would not reap any benefit whatsoever. Such arguments, as urged, were glossed over by the learned single Judge and no finding was returned on the same.

Mr. Galib, learned Senior Government advocate appearing for the State/respondents denies and disputes the contention of Mr. Dutta and submits that in terms of the Court's order, a thorough enquiry was conducted and the birth certificate issued by the said Panchayat was found to be a suspicious document. In the said enquiry adequate opportunity of hearing was granted to Saidur and the functionaries of different Madrasahs were examined and their statements were duly recorded.

Mr. Galib further submits that the certificate issued by the said Panchayat, as annexed at page 50 of the stay application, clearly reveals that the application for the said certificate was submitted decades after Saidur was born and no reliance can be placed upon the same inasmuch as the same has not been issued in consonance with the provisions of Section 13(3) of the Registration of Births & Deaths Act, 1969 (in short, the 1969 Act).

Drawing our attention to the statements made in page 90 of the stay application, Mr. Dutta, in reply,

submits that the birth certificate issued by the competent authority on 31st December, 2019 was tallied with the original register of the said Panchayat and found to be genuine. The same date of birth i.e., 11.03.1976 stands incorporated in Saidur's Aadhar Card, PAN Card, driving license and the transfer certificate, as annexed at page 47 of the stay application, issued by the competent authority. In the said conspectus, the learned single Judge ought to have exercised discretion in favour of Saidur.

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. No reliance, in our opinion, can be placed upon the birth certificate issued on 31.12.2019 inasmuch as the said certificate has been issued in derogation to the provisions of Section 13(3) of the 1969 Act and suffers from a jurisdictional error. In view thereof, the learned single Judge has rightly denied to give its imprimatur to a certificate which is void and has no statutory force moreso when the said certificate had been obtained by submitting an application decades after the birth of Saidur.

The learned single Judge dealt with the factual issues and arrived at specific findings and we do not find any infirmity in the same, warranting interference in appeal.

Accordingly, the appeal and the connected application are dismissed.

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.)