

(2011) 01 KL CK 0176

In the High Court Of Kerala

Case No : Writ Petition (C) No. 3053 of 2011 (F)

Akhil V.S.

APPELLANT

Vs

Central Board of Secondary Education and The Principal

RESPONDENT

Date of Decision : 31-01-2011

Acts Referred:

Citation : (2011) 01 KL CK 0176

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : K.S. Manu, for the Appellant; No Appearance, for the Respondent

Judgement

Antony Dominic, J.—Petitioner was a student of the school of which the third Respondent is the Principal. The school is affiliated to the first Respondent. In the school records and the certificates issued by Respondents 1 and 2, his date of birth has been entered as 13-05-1989 instead of 13-06-1988.

2. According to the Petitioner, he made an application to the third Respondent for correction of the said mistake. The third Respondent forwarded this request to the second Respondent and the second Respondent rejected the prayer by Ext.P3 communication addressed to the third Respondent. Therefore, the third Respondent issued a communication to the Petitioner. It is in the above circumstances, challenging the aforesaid communications issued by Respondents 2 and 3, the writ petition has been filed.

3. The reasons stated in the communication issued by the second Respondent is that the school has not complied with Clause 69 of the CBSE Examination Bye-laws. Standing Counsel appearing for Respondents 1 and 2 points out that if a request for correction of date of birth is received, the school has to consider the request in the light of the documents produced and if it is found that correction is recommended, thereupon only the second Respondent will consider the request. It is pointed out that on the other hand, the Principal forwarded the application to the second Respondent without correcting the school records. It is pointed out

that the application made by the Petitioner was also belated. According to the Standing Counsel, it was for the aforesaid two reasons, the request of the Petitioner could not be entertained by the CBSE.

4. As far as the delay now pointed out by the second Respondent in Ext.P3 dated 17-09-2010 which is reiterated by the third Respondent in his communication dated 06-10-2010 is concerned, in several cases, including in the judgment in W.A. No. 1948/2008 and in Ext.P4, this Court has already held that irrespective of the time frame incorporated in the CBSE Examination Bye-laws, even if the request received is belated, such request for correction is liable to be considered on merits. Therefore, the delay now pointed out is unsustainable and cannot be accepted.

5. However, there is substance in the objection raised by the Standing Counsel for Respondents 1 and 2 that once a request is received, it is for the third Respondent to examine the same and make correction in the school records. If that be the position, and if the third Respondent has not complied with the above, the second Respondent cannot be faulted for having taken the view as seen in Ext.P3.

6. Therefore, I dispose of the writ petition as follows:

On the production of a copy of this judgment along with a copy of the writ petition, the third Respondent will reconsider the application made by the Petitioner and if the third Respondent finds merit in the request, correction will be carried out in the school records and the matter will be forwarded to the second Respondent with his recommendation. On receipt of the above, the second Respondent will conduct necessary enquiry and pass orders on the application. This process shall be completed by the second Respondent within eight weeks from the date of production of a copy of this judgment.