
(2013) 09 P&H CK 0389

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11566 of 2013

Akshita Singh

APPELLANT

Vs

Central Board of Secondary Education and Others

RESPONDENT

Date of Decision : 10-09-2013

Acts Referred:

Citation : (2014) 173 PLR 387

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Judgement

Rakesh Kumar Jain, J.—The petitioner has challenged order dated 25.04.2013 by which her application for correction of date of birth has been rejected by respondent No. 2 and has prayed for a direction to respondent Nos. 1 and 2 to make appropriate correct entry of her date of birth as per birth certificate dated 15.01.2013 issued under the provisions of Birth and Death Registration Act, 1969 (hereinafter referred to as the "Act"). The brief facts of the case are that the petitioner was born on 25.04.1995 and is presently studying in Holy Child Public School, Delhi Road, Rewari. At the time of admission in primary class, her date of birth was wrongly recorded as 25.04.1996 instead of 25.04.1995. The petitioner took admission in Jesus Junior Academy in 2nd class and Left that school with the same date of birth as 25.04.1996. Thereafter, she took admission in RBS Model Public School, Rewari, but in the record of mat school, her date of birth was wrongly entered as 25.04.1997. On the basis of the transfer certificate issued by respondent No. 3, she took admission in 10th class in Delhi Public School village Jaunawas, Rewari. She passed her secondary school examination in 2011 with the date of birth recorded as 25.04.1997. In January 2013, the error came to the notice of the parents of the petitioner and they approached the Principal of Holy Child Public School, Delhi Road, Rewari, for correction of her date of birth who moved an application along with relevant document to respondent No. 2, however, her prayer was rejected by respondent No. 2 on the ground that the school record does not support the desired correction.

2. Counsel for the petitioner has submitted that as per examination Bye-laws 69.2 of respondent No. 2, the date of birth can be changed. He has further submitted that as per hospital record, the petitioner was born in Chugh Nursing & Maternity Home, Meham Gate, Bhiwani on 25.04.1995, and as per the certificate issued by the doctor of that hospital, her date of birth has been recorded as 25.04.1995. Immediately after her birth, her date of birth was recorded in the office of Registrar, Births and Deaths at Bhiwani with the date of birth as 25.04.1995 and place of birth as Chugh Nursing & Maternity Home, Bhiwani. It was an error/omission on the part of the petitioner's parents that her date of birth was wrongly mentioned twice as 25.04.1996 and 25.04.1997. It is pleaded that it is only the error of recording the year otherwise the date and month of the birth has always been the same. It is further submitted that the respondents have wrongly referred to the school record because in case of conflict between date of birth recorded in the Birth Register and School Leaving Certificate, in that event, the entry in the birth certificate issued by the Registrar of Birth and Death would prevail. In this regard, he has relied upon a Division Bench decision of this Court in the case of Resham Singh Vs. Union of India (UOI) and Another, and a Single Bench judgment of this Court rendered in the case of Ms. Seerat Khara Vs. Central Board of Secondary Education and Another, .

3. On the other hand, counsel for the respondents has submitted that the petitioner has given 3 dates of her birth in different schools. The question of dispute of her actual date of birth can only be resolved by filing a Civil Suit in which the petitioner has to lead elaborate cogent evidence. It is further submitted that the petitioner herself has declared her date of birth as 25.04.1997 while taking admission in RBS Public School, Rewari and she could have got it corrected earlier and the petition filed at the belated stage is not maintainable.

4. I have heard learned counsel for the parties and perused the record.

5. The petitioner is born to the couple, namely, Yoginder Pal and Snehlata. She is allegedly born at Chugh Nursing & Maternity Home, Bhiwani, on 25.04.1995. The information of her registration of date of birth is at Registration No. 1203 on 03.05.1995 with the Registrar of Births and Deaths, Biwani, who has also given a certificate in this regard to the Principal of the Holy Child Public School, Delhi Road, Rewari.

6. In Ms. Seerat Khara's case (*supra*), while discussing the scheme of the Act, it was observed that it is the duty of the persons, who were specified in the said provisions, to give either orally or in writing, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government u/s 16(1) of the Act wherein a register is kept in the prescribed form for the purpose of registration of births and deaths in respect of the area to which the Registrar exercises jurisdiction. The certificate of registration of birth or death is to be provided free of charge to the person who furnishes information u/s 8 or Section 9 of the Act under his hand from the register relating to such

birth and death. Section 17(2) of the Act further provides that all certified extracts given by the Registrar or any other officer authorized by the State Government to give such extracts in terms of Section 76 of the Indian Evidence Act, 1872, shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

7. In Resham Singh's case (supra), it was held by the Division Bench of this Court that if there is a conflict between date of birth recorded in the Birth Register and School Leaving Certificate, it is always the entry in the birth certificate issued by the Registrar of Births and Deaths which would prevail and if the certificate is found to be unreliable, suspicious or appears to be procured or manipulated, the parties should be relegated to Civil Court to get declaration in case genuineness of certificate is doubted.

8. However, in the present case, the respondents have only raised doubt only on the ground that the petitioner has given 3 different date of her birth, namely, 25.04.1995, 25.04.1996 and 25.04.1997 and for that matter, it has been submitted that the petitioner should seek a declaration by way of Civil Suit. However, in my considered opinion, the facts which have been brought on record clearly shows that the petitioner was born on 25.04.1995 at Chugh Nursing & Maternity Home, Bhiwani, and got entry of her birth registered by her parents immediately on 03.05.1995 vide registration No. 1203. The certificate in this regard, even otherwise, has been given by the Registrar, Births and Deaths, Bhiwani, to respondent No. 4-school besides issuing the formal certificate u/s 17 of the Act on 15.01.2013. In view of the aforesaid discussion, the present petition is found to be meritorious and the same is hereby allowed and the impugned order dated 25.04.2013 is hereby quashed. Consequently, the respondents are directed to incorporate the correct date of birth of the petitioner as 25.04.1995 in their respective records.