

(1943) 04 MAD CK 0040
In the Madras High Court

B. Ramamurthy by next friend and father B.S. Chetti	APPELLANT
Vs	
The Director of Public Instruction	RESPONDENT

Date of Decision : 28-04-1943

Acts Referred:

Citation : AIR 1944 Mad 187 : (1943) 2 MLJ 665

Hon'ble Judges : Bell, J

Bench : Division Bench

Judgement

Bell, J.—This is an application for a mandamus directing the Director of Public Instruction to entertain an application of the applicant dated the 23rd June, 1942, and to cause the alteration of the date of birth of the applicant from 20th December, 1928, which is alleged to be a mistake to 12th November, 1927, in his school leaving certificate register No. 7067. The motion might have been more happily worded but its intention seems plain enough.

2. The applicant is one B. Ramamurthy, minor by his next friend and father, B.S. Chetti. The respondent is the Director of Public instruction, Madras. The father says in his affidavit that the son was born in Trichinopoly on 12th November, 1927. Domestic troubles arose between himself and his wife. The father had to follow his railway employment in a different part of India to that in which the wife and the children went to live. When the time came for the boy to be sent to school, he was admitted to the second form of the Wardlaw High School, Bellary, in or about June, 1937 and for some reason or another, the mother who took him there and gave the required particulars of his name, birth, etc., gave the date of birth as 20th December, 1928. That was done without the knowledge of the father. The student passed through the High School and in due course sat for the Secondary School Leaving Certificate Examination in March, 1942. He was successful but because he appeared from the school books to be under age, the incorrect date of birth appears on his leaving certificate and under the regulations he will not be permitted to enter for his University course for that year so that in effect, because of his mother's misstatement, he may lose a

year's University education. The father on finding out the facts of this case sought out the Principal of the Wardlaw High School who advised him to approach the Director of Public Instruction. He obtained a certificate from the Registrar, of Births for the Trichinopoly Municipality which shows the date of birth as being 12th November., 1927, and applied to the Director of Public Instruction on 23rd June, 1942, for the alteration of the date on the leaving certificate. No reply was received to this application. He wrote a reminder on 2nd September, 1942. The reply came on 10th September, 1942, to this effect: " I regret I am unable to order the alteration of the date of birth in the S.S.L.C. Register of B. Ramamurthy.

3. A further application was sent on 9th October, 1942, wherein the full circumstances of the case were again set out and a certificate from the District Magistrate, Trichinopoly, was enclosed as further proof of the date of birth. The Director replied on 4th November, 1942:

Since there has not been a clerical error the Director of Public Instruction regrets that he is unable to order the alteration in the entry.

4. Further correspondence took place and the Director took shelter under the orders of the Government issued in G.O. No. MS. 954 Edn. dated 23rd June, 1941. He advised the father to appeal to the Government. On 25th November, 1942, an appeal was preferred to which the Government in their memorandum No. 41388 B/42-1 Edn. dated 7th December, 1942, said:

Sri B.S. Chetti is informed that the general rule is that no alteration of the date of birth or other particulars recorded in the S.S.L.G. should be made after the pupil has completed the S.S.L.C. " Course and left school.

5. It is a fact that when the father made his application on 23rd June, 1942, the pupil was still at the school. He did not terminate his connection with the school until 29th June, 1942. The Government added:

This rule is based on administrative grounds. The Government regret that they cannot make an exception." second appeal was thereupon preferred by the father. Attached to this were copies of proceedings in various Courts which went still further to establish the date of birth as being 1927. The Government rejected his petition.

6. The father now asks, u/s 45 of the Specific Relief Act, for an order that the Director shall make the alteration because he has not in fact carried out the instructions provided in the S.S.L.C. Scheme of 1929. Under this scheme subsidiary rules provide for the length of the school year, age limits and entries in regard to name, date of birth, etc. The practice appears to be that when a pupil attends school for the first time his name and date of birth are taken and when he gets to form IV and enters upon the S.S.L.C. course care is taken to ascertain the correct date of birth and that date is entered in the School Leaving Certificate. If the date then furnished is the same as that which already appears

in the school books a declaration is taken from the parent or guardian that the date of birth entered in the school register is correct and that no alteration of the date will be demanded in future on the plea that the correct age was not given at the time of admission.

7. That was what happened in this case. The declaration made by the mother of the pupil gives the date (now said to be the wrong date) and adds:

This may be entered as final and I am prepared to prove the correctness of the date if called upon to do so.

8. The declaration is therefore strictly not in terms a compliance with the rule. Possibly in cases where ignorant women are being dealt with greater care should be taken to ensure that the correct date is entered. The rule concludes:

These statements should be filed in the school for future reference. If this is done, there will be no need for making any alteration therein later. In any event, alterations in the date of birth of pupils will not ordinarily be sanctioned after they reach Form V. Subject to these conditions. Inspecting Officers may sanction alterations in the date of birth but must do so only after satisfying themselves by requiring the production of the clearest evidence that the date as already entered in the certificate is incorrect and that the one proposed to be inserted is correct. Applications for alterations in the date of birth will not be entertained after a pupil has completed his school course and left the school.

9. On a fair reading of this rule, in my opinion, it is contemplated that an occasion may arise when an alteration should properly be made. The language shows that mistakes by parents with regard to dates are to be expected and the rule is, I think, designed to prevent frivolous applications which may cause a great deal of trouble and investigation and where the proof of incorrectness offered may in any event be unsatisfactory. In this case it would appear from the certificates exhibited to the affidavit and which were supplied to the Director of Public Instruction that this boy's date of birth was incorrectly entered. No application to alter it was made before he reached form V because the father was then unaware of the incorrectness of the entry. No alteration will ordinarily be sanctioned. Is this an ordinary case? In my opinion it is not. It is not the pupil's fault that his father and mother had dissensions. Wherever possible, in my view, the alteration should be made. In my opinion the Inspecting Officers, had they been approached might well have sanctioned the alteration. They should have been satisfied by the production of a certificate of birth corroborated as that was by the certificate. of the Magistrate and could have, within the scope of the rule, made the alteration. The rules provide that the application for alteration will not be entertained after the pupil has completed the school course. I think that must mean after he has left the school, that is to say, has completely severed his connection with it and where to investigate his case would involve labour and trouble, disproportionate to the merits of the case, for the school authorities. If the words mean anything, they mean that the element of physical presence in

the school must be taken into account and it is admitted here that his name was in the register of the school when the application was first made, namely, on 23rd June, 1942.

10. There is no question about the importance of this matter to the student. It may affect him in diverse ways throughout his career if the date on the School Leaving Certificate is any criterion of his age. I am impressed however by the Government of Madras Order G.O. No. MS. 954 Edn. dated 23rd June, 1941, when its full terms are considered. It is somewhat informal in its language and it is as follows:

The Government are not in favour of a modification of the general rule that alterations in the entries relating to the date of birth or other particulars in the secondary school leaving certificate of a pupil should not be made after the pupil has completed his school course and left the school. They have however no objection to the correction of obviously absurd mistakes in the certificate after the pupil has left the school.

11. What the words "obviously absurd" mean I cannot tell. The meaning would differ according to the taste of the individual reading it. To my mind to have on a school certificate a date which does not correspond with the certificate of the Register of births, is not only absurd but is one which should not be permitted to remain by any public authority. If the Register of births is maintained under the public authority then it is proper that all Government documents should bear the date as shown in those registers and that information given to them by muddled or ignorant parents should not be finally and irrevocably relied upon. The order goes on to say: "Such corrections should be made only under the orders of the Director of Public Instruction and should be attested by an officer of the Educational Department not lower in rank than a District Educational Officer or Inspectress of Schools.

12. In my opinion the Government gives the widest discretion to the Director of Public Instruction that wherever a case of a clerical error or a bona fide mistake or manifest injustice is brought to his notice, despite all the general rules, he may make the alteration.

13. In the circumstances, therefore, I think that it is just that the Director of Public Instruction should consider and determine the application for alteration in accordance with the spirit of the rules and the Government of Madras order which I have just read. As there is no blame which can be attached to the public authorities and the error was due entirely to the applicant's failure or that of his parents or guardians to see that the correct date was entered in the register, there will be no order as to costs.

14. The rule for mandamus is therefore made absolute.