

(2012) 09 MP CK 0334
In the Madhya Pradesh High Court
Case No : W.A. No. 826 of 2012

Board of Secondary Education

APPELLANT

Vs

Priyanka Shrivastava

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Citation : (2012) ILR (MP) 2632 : (2012) 4 MPJR 107

Hon'ble Judges : Vimla Jain, J; Krishn Kumar Lahoti, J

Bench : Division Bench

Advocate : T.S. Ruprah, with Mr. Harmeet Ruprah, for the Appellant; Siddharth Gulati, for the Respondent

Judgement

1. This appeal is directed against an order dated 7.5.2012 in W.P. 5767 of 2012 by which a writ petition preferred by the respondent was finally disposed of by an order which reads thus:-

The petition is disposed of with a liberty to the petitioner to produce the original enrollment card and the birth certificate with the respondent. On receiving the same, the respondent shall within 15 days issue the corrected mark sheet and certificate of 10th Class examination.

Learned counsel for the appellant submitted that in view of the specific provisions as contained in Rule 9 of M.P. Date of Birth (Entries in the School Register) Rules 1973, the date of birth cannot be corrected by the Board after the forms are received by the Board. It is submitted that in view of the specific provision as contained under Rule 9 of the Rules, the application of the respondent was rightly rejected and the learned Single Judge erred in directing the appellant to consider the prayer of the respondent for the correction of the date of birth.

2. We have perused the Rules, 1973. Rule 7,8 and 9 which are relevant for the decision of this case, are referred, which reads as under:-

7. Rectification of mistake-If the parent or the guardian finds any mistake in the date of birth mentioned in the School record, progress report or in other School documents or register vis-?-vis the declaration made at the time of the first admission of the student, he shall make an application to the head of institution explaining the incorrectness. In the case of a clerical mistake the head of the institution shall correct the entry in accordance with the original declaration of the parent or the guardian and inform him accordingly.

8. Correction or change in the date of birth: (1) When any correction or change in the entry relating to the date of birth made in the declaration under Rule 3 or in the School register or other School documents or record is desired, the parent or the guardian shall make an application in writing to the head of the institution containing sufficient evidence as to the incorrectness of the original entry and adequate explanation and reasons for the mistake alongwith the following documents namely;-

(i) Certified copy of any entry relating to date of birth in the register of the local authority or the hospital or the maternity home or the primary health center.

(ii) Affidavit sworn by the parent or the guardian before 1st class Magistrate regarding the correction or change required and the correct date birth of each living or dead child born of the same mother.

(iii) Any document or evidence, showing the correct date of birth.

(2) The application shall be accompanied by a copy of challan in proof of the payment of rupees five in the Government Treasury.

(3) The head of the institution shall enquire into the application personally and forward it to the competent authority concerned for disposal alongwith his report.

(4) On receipt of the application and report the competent authority shall after making such enquiry as it may consider necessary, shall record a finding there to and if it is satisfied that the correction or change in the entry of the date of birth should be made, he shall record an order to that effect which shall be communicated forthwith to the applicant. A copy of the order so passed shall also be sent to the Head of the institution concerned who shall accordingly correct the date of birth in the School registers and other School documents or records.

(9) Restrictions on Entreating the Application for correction in date of birth-No application for correction in date of birth recorded in School records shall be entertained under rules 7 and 8 after the form for the Board's examination at the end of secondary level of education has been sent to the Board or after the student has left the School, if the student has not pursued education upto the end of secondary standard.

3. The rules provides that no application for correction in the date of birth recorded in the School register shall be entertained under Rule 7 and 8, after form for the Board's examination, at the end of secondary level of education,

has been sent to the Board or after the student has left the School, if the student has not pursued education upto the end of secondary education. In this case, it is not in dispute that the respondent is still studying in class XIIth and has not left the course of secondary standard. The application was moved by the respondent in the year 2010, immediately on getting the mark-sheet and at the relevant time she had not left the education or had not completed secondary education. So far as the Rule 7 and 8 are concerned, these Rules provide rectification of mistake and correction or change in date of birth by the institution itself where the students were admitted. The aforesaid Rule 7 and 8 does not restrict the Board of Secondary Education to correct the date of birth.

4. In view of the specific provision as contained under Rule 7 and 8, the appellant Board wrongly rejected the application of the respondent for correction of the date of birth. The learned Single Judge after considering the material on record rightly directed the appellant herein to consider the prayer of the respondent for correction of the date of birth on the basis of birth certificate and also other material. The appellant herein is having jurisdiction to correct the date of birth inspite of the fact that the respondent had passed High School Examination, if she had not left the education or has not completed secondary education. If the respondent is able to convince the appellant that date of birth recorded in the examination form was incorrect and infact the date of birth of the respondent was otherwise, the appellant herein is having jurisdiction to change the date of birth on being convinced in this regard.

5. In view of the aforesaid, we do not find any error in the order passed by the Single Bench warranting our interference. The appellant herein is directed to consider the prayer of the respondent expeditiously. The respondent herein may also file other material/evidence in support of her contention in respect of the change of date of birth within a period of 30 days, if already not filed. With the aforesaid liberty this writ appeal is finally disposed of with no order as to costs.