

(2013) 10 MP CK 0175
In the Madhya Pradesh High Court
Case No : Writ Petition No. 6432 of 2013

Mayank Tiwari

APPELLANT

Vs

Board of Secondary Education and Another

RESPONDENT

Date of Decision : 04-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0175

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : V.K. Shukla, for the Appellant; Kamlesh Dwivedi, Learned Counsel, for the Respondent

Final Decision : Disposed Off

Judgement

R.S. Jha, J.—The petitioner has filed this petition stating that the petitioner's date of birth recorded in the school record is 5-10-1990 and even at the time when the petitioner appeared in the IXth Class Board Examination in the year 1990, the Board of Secondary Education, M.P., Bhopal issued the enrollment card in which the petitioner's date of birth was shown to be 5-10-1990. It is further stated that even in the certificate of Middle School Examination, issued by the District Education Officer, on 18-6-2012 the petitioner's date of birth has been mentioned as 5-10-1990, however, on account of a mistake on the part of the petitioner committed while sending information to the respondent/Board mentioned his date of birth as 5-10-1991 instead of 5-10-1990, the respondent/Board has issued the mark sheet of XIIth Class by stating that his date of birth to be 5-10-1991 instead of 5-10-1990.

2. It is submitted that thereafter the petitioner, on the strength of the school record and register, sought correction of the same but the respondent/Board has rejected the application filed by the petitioner, by the impugned communication dated 27-8-2012 by stating that the application was filed beyond the period of three years. It is submitted that the reliance placed by the respondents on the provisions of Rules 7 and 8 of the M.P. Date of Birth (Entries in the School

Register) Rules, 1973 is misplaced as the said rules only relate to change in the entries in the school register whereas in the instant case the petitioner is praying for change in the date of birth recorded by the Board and not by the school and is also not seeking change in the entries made in the register. It is submitted that In the circumstances, the reliance placed by the respondent/authorities in the decision rendered by this Court in the case of Rajbali Singh Vs. Board of Secondary Education, is misplaced.

3. The learned counsel appearing for the respondents, per contra, submits that the wrong date of birth was in fact mentioned by the petitioner himself while filling up the form Annexure R-2. It is submitted that on the wrong information submitted by the petitioner the mark sheet has been issued by the respondents and in such circumstances the same cannot be corrected after such a long time in view of the judgment of this Court in the case of Rajbali Singh (supra).

4. Having heard the learned counsel appearing for the parties and after perusing the record, it is observed that in the instant case the date of birth recorded in the school register and other documents is 5-10-1990 and the change in the date of birth came about on account of the mistake on the part of the petitioner and that the authorities, without verifying the date of birth from the school register, have issued the mark sheet wrongly mentioning the date of birth of the petitioner to be 5-10-1991 and in such circumstances they were bound to verify the date of birth from the school register while issuing the mark sheet.

5. In the circumstances, the respondent/authorities were required to look into the matter instead of rejecting the prayer of the petitioner for correction in the date of birth on the ground that the application was filed after three years. It is also clear that the decision relied upon by the respondents has no applicability in the facts and circumstances of the present case which are totally different as there is admitted discrepancy between the school records and the Board records for which the petitioner cannot be made to suffer.

6. In view of the aforesaid, the petition filed by the petitioner is disposed of with a direction to the effect that in case the petitioner files a representation before the respondent/authorities alongwith school records, other mark sheets and copy of the order passed today and a copy of the petition within two weeks of obtaining the same, the concerned authority shall consider and decide the same by passing a reasoned order thereon in accordance with law within a period of four weeks thereafter.

7. With the aforesaid directions the petition filed by the petitioner stands disposed of. C.C. as per rules.