
(2019) 05 MP CK 0020
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8903 Of 2019

Seema Gudsele

APPELLANT

Vs

The State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 17-05-2019

Acts Referred:

Citation : (2019) 05 MP CK 0020

Hon'ble Judges : Sanjay Yadav, J

Bench : Single Bench

Advocate : B.M. Patel, Vinay Kumar, Gaurav Mishra

Final Decision : Dismissed

Judgement

The matter though is posted for filing of return by respondent; however, taking into consideration the fact that after almost 14 years from the issuance of Higher Secondary School Certificate Examination, 2003 mark-sheet, the petitioner seeks correction in date of birth, the matter is taken up instantly for hearing as under similar fact situation relief has been declined in decided on 27.02.2018; wherein, also the correction of date of birth in mark-sheet after 15 years was declined. The order is reproduced in its entirety:

â??Petitioner is aggrieved of non correction of her date of birth and father's name in Certificate of High School Examination, 2002. It is urged that her date of birth is 18/02/1990, but the same is recorded in Certificate as 18/04/1986. It is further contended that her father's name is also wrongly recorded as Mahendra Kumar Goyal in place of Mahendra Singh. Petitioner has relied upon birth certificate issued on 20/03/2017, Unique I.D. and certificate dated 09/03/2017 issued on behalf of the District Education Officer, Gwalior certifying that the petitioner passed her Middle School in the

year 2000. Pertinent it is to note that the petitioner has not filed any document relating to initial admission such as Scholar's Register.

The respondents have denied the entitlement of the petitioner for correction of date of birth in the marksheet and other correction after 15 years. It is

urged that as per the norms laid down by the Board, an application filed after 3 years from the declaration of result for correction thereof cannot be

entertained. Reliance is placed on the order dated 14/01/2015 and 07/05/2015 brought on record as Annexure R/4/1.

The relevant clause pertaining to date of birth whereof stipulates:-

â??2.

(/ / 10)

:-

()

() /

()

()

()

03

03 /

(31 , 31

, 29 29) 03

3. / / ?/ : ?? , -

/ ; ;

;

(/

/ ? -)

/ ; /

:-

() /

() -

()

()

()

(/ /

/ ,)

Further reliance is placed on the decision in Union of India Vs. Harnam Singh [(1993) 2 SCC 162,] Surendra Singh Vs. State of M.P. and

others [2007 (1) MPLJ 286], Shivadan Lakha Vs. State of M.P. and others [2017 (4) MPLJ 349] to substantiate the contention that the change in

marksheet or the certificate cannot be entertained at such belated stage.

So far as the decision in Harnam Singh (supra), Surendra Singh (supra) & Shivadan (supra) are concerned, the same relate to service matter as would

be of any assistance in the issue presently involved in the case.

However, the issue as is raised in present case came up for consideration before the Co-ordinate Bench of this Court in Rajbali Singh Vs. Board of

Secondary Education, Bhopal [2001 (3) MPLJ 276] wherein while dwelling upon the similar issue, it has been held:-

7. On a bare reading of the aforesaid Rules it is absolutely clear that certain stages are provided for correction or change in the date of birth. Rule

9 makes it categorically clear that no application in regard to date of birth shall be entertained either under Rule 7 or 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. Thus, the school authorities have no power to rectify the mistake after the forms are sent to

the Board. On a perusal of the Rules it is graphically clear that there is no provision for correction of date of birth by the Board. In absence of any

provision in the Rules the Board is entitled under law to provide guidelines for correction of date of birth. The Board has framed guidelines which have

been brought on record as Annexure P-2. The said guidelines provide that on compliance of certain formalities there can be rectification of the date of

birth. It has been laid down therein that the prayer for rectification or correction of date of birth would not be accepted after three years. Submission

of Mr. Jain, learned senior counsel is that in absence of any limitation in the Rules the Board could not have provided a period of limitation in the

guidelines. In my considered opinion as the Rules do not deal with the period of limitation the Board has the authority to stipulate a time limit for

correction of the date of birth and I do not perceive any error in such a provision.

8. The next submission of Mr. Jain is that the petitioner after coming to know about the error made a representation to the Board in quite promptitude

and there is no delay and therefore, he cannot be deprived of the benefit on the ground of delay and laches. Learned counsel has drawn the inspiration

from the decision rendered in the case of S.C. Verma (supra). In the aforesaid case the Division Bench has dealt with the correction of date of birth

relating to a Central Government employee and has interpreted the provisions under Rule 56 of the Fundamental Rules. The Division Bench to reach

its conclusions has placed reliance on the decision rendered in the case of Union of India v. Harnam Singh, AIR 1993 SC 1367. The learned Chief

Justice speaking for the Court has come to hold that as there was discrimination in view of the law laid down in the case of Harnam Singh (supra) the

order passed by the Central Administrative Tribunal was susceptible and required to be interfered with. In my considered opinion the factual matrix of

the aforesaid case is quite different from the present one. In the case at hand, the Board has its own guidelines and the petitioner has approached the

Board after three and a half decades. The enormous delay clearly establishes that the fault on the part of the petitioner is colossus. It is well settled in

law that a litigant who is not vigilant, is not entitled to any relief. At this juncture, I think it apposite to refer to a passage from Harnam Singh (supra)

wherein their Lordships expressed thus :-

“..... A Government servant who has declared his age at the initial stage of employment is, of course, not precluded from making a request later

on for correcting his age. It is open to a civil servant to claim correction of his date of birth, if he is in possession of irrefutable proof relating to his

date of birth as different from the one earlier recorded and even if there is no period of limitation prescribed for seeking correction of date of birth, the

Government servant must do so without any unreasonable delay. In the absence of any provision in the Rules for correction of date of birth, the

general principle of refusing relief on grounds of laches or stale claims, is generally applied to by the Courts and Tribunals. It is nonetheless competent

for the Government to fix a time limit, in the service rules, after which no

application for correction of date of birth of a Government servant can be entertained. A Government servant who makes an application for correction of date of birth beyond the time, so fixed, therefore, cannot claim, as a matter of right, the correction of his date of birth even if he has good evidence to establish that the recorded date of birth is clearly erroneous. The law of limitation may operate harshly but it has to be applied with all its rigour and the Courts or Tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire.

(emphasis supplied)

From the aforesaid pronouncement of law, it is quite vivid that unless the requisite application is submitted within the prescribed period the litigant has to suffer on the ground of delay and laches. In this context, I may profitably refer to the order passed in Santosh Kumar Shukla (supra) wherein C.K.

Prasad, J. has held as under :--

In any view of the matter, petitioner has asked for correction of his date of birth by filing an application after 19 years of the issuance of the certificate, on this ground alone, I am of the opinion that the petitioner is not entitled for the relief prayed for in the writ petition.

Thus the lis buried in the coffin, cannot rise like a phoenix.

9. Mr. V.K. Shukla, learned counsel for the Board has also drawn the attention of this Court to the Note appended in the Annexure P-4, which reads

as under :-

In case of any discrepancy this mark-sheet should be returned immediately to the Secretary pointing out the error in a separate forwarding memo.

There is nothing on record to point out that the school authorities brought it to the notice of the Board that the date of birth of the petitioner was

erroneously mentioned in the marksheet. Even if the stand of the petitioner is accepted the school authorities could not have changed the date of birth

of the petitioner as the same was within the domain of the Board even before the 1973 Rules came into force. Thus, submission of Mr. Jain that when

the school authorities had corrected the date of birth of the petitioner, it was incumbent on the Board to carry out the rectification, does not merit

consideration.â??

The petitioner has relied upon the decision in R.K. Jangra Vs. State of Punjab and

others [(2009) 5 SCC 703]by the Supreme Court; Arun Vs.

Central Board of Secondary Education [2010 (1) KLT 960]; Sreeraj R. Nath Vs. Central Board of Secondary Education [2013 (2) KLT 430] by

Kerala High Court; Sarifuz Zaman Vs. Board of Secondary Education and others [2001 (1) GLT 94] by Gauhati High Court and in Mayank Tiwari

Vs. Board of Secondary Education, M.P. Bhopal and another [W.P. No. 6432/2013]; however in the considered opinion of the Court taking into

consideration the fact situation in these cases, they are of no assistance to the petitioner.

In. R.K. Jangra (supra), it was found that the petitioner within two years of his joining the services on 11/01/1988 made an application to the

Additional District Registrar, Births and Deaths, Jalandhar who issued the corrected birth certificate on 19/05/1981; however, correction of

matriculation certificate by the Registrar, Punjab University was declined on the ground of limitation. It was in this fact situation, Their Lordships were

pleased to observe:-

â??7. Appellant, in spite of his attempts right from the year 1981, has failed to come out of the perplexing web of the bureaucracy. Appellant who is

due to retire in January 2010 is praying for another extra year of service. He has made several representations in this regard without getting any

results. At this juncture he only wants his representation being considered in proper perspective and in accordance with law and to give him one more

year of extension of service by making appropriate correction of his date of birth in the service records.

8. In view of the above discussion, in the peculiar facts and circumstances, we direct the competent authority/Principal Secretary, Department of

Irrigation, Punjab, Chandigarh to consider the representation filed by the appellant on 8.5.1987, in the light of documents and material produced by him,

within a month from the date of this order, if the representation made by the appellant is available with the respondent untrammelled by any of the

observations made in the earlier orders. If such representation is not available in their records, the competent authority will call upon the appellant to

file a fresh representation with all the particulars required and consider the same within a reasonable time.â??

In the case at hand, the petitioner after 15 years of the declaration of result had

taken steps seeking correction in date of birth, thus the decision in

R.K. Jangra (supra) which turn on its own facts is of no assistance to the petitioner.

Similarly, decision by Kerala High Court in Arun (supra) and Sreeraj R. Nath (supra) turns on their own facts and does not lay down any law as

would have any persuasive effect.

In Mayank Tiwari (supra) the Co-ordinate Bench though took note of the decision in Rajbali Singh (supra). However, the findings and the conclusion

in paragraph 7, 8 and 9, as it appears from the order, is not taken note of; and therefore deserved to be distinguish in present fact situation.

Taking any view of the matter, in the case at hand as it is impermissible to cause any change in the certificate issued by the Board of Secondary

Education after the expiry of 3 years, no relief can be granted to the petitioner.

Consequently, petition fails and is dismissed. No costs.â??

In view whereof, the present writ petition is also dismissed in same terms. No costs.