

(2022) 02 MP CK 0198

In the Madhya Pradesh High Court

Case No : Writ Petition No. 25248 Of 2019

Shiv Kumar Sharma

APPELLANT

Vs

Secretary, M.P.Board Of Secondary Education And Others

RESPONDENT

Date of Decision : 26-02-2022

Acts Referred:

Madhya Pradesh Date Of Birth (Entries In The School Register) Rules, 1973 — Rule 3, 4, 6, 7, 8

Citation : (2022) 02 MP CK 0198

Hon'ble Judges : Purushaindra Kumar Kaurav, J

Bench : Single Bench

Advocate : Madhavi Chaturvedi, Jubin Prasad

Final Decision : Allowed

Judgement

Purushaindra Kumar Kaurav, J

1. The petitioner has approached this court for a direction to the respondent No.1/Board to carry out requisite correction regarding his date of birth in his mark-sheet of Class-10th (Annexure P/2).

2. The case of the petitioner is that as per his birth certificate (Annexure P/1), his date of birth is 19.05.1998 and inadvertently, in Class 10th mark-sheet, his date of birth is mentioned as 07.07.2000. He also placed reliance on the school leaving certificate (Annexure P/4) dated 04.07.2013 which mentions the correct date of birth and also the admission register (Annexure P/5) which also records the correct date of birth as 07.07.2000. On 2. 08.2018 (Annexure P/7) he made an application to the respondent/Board for correction of his date of birth in the mark sheet of Class 10th. Since no decision was taken, therefore, he approached this Court for appropriate direction.

3. Learned counsel for the petitioner placed reliance on a decision of this Court in the matter of Isha Mongia Vs. Central Board of Secondary Education W.P.No.15198/2017 dated 15.11.2018. to contend that on account of any

inadvertent mistake, the student should not suffer for any wrong entry made in the mark-sheet and accordingly, the petition was entertained directing the Board to issue the mark sheet of Class 10th and 12th examination mentioning the correct name of the father of petitioner in that case.

4. Learned counsel for the respondent/Board, however, submits that as per Clause (ii) the order of the respondent/ Board dated 14.01.2015, an application for correction of the date of birth can be considered only when the same is submitted within a period of three years from the date of declaration of the result of the concerned examination. In the instant case, the result of Class 10th was declared in the year 2014 and the petitioner has made an application in the year 2018, therefore, the instant writ petition is not maintainable and the same deserves to be dismissed. He placed reliance on a decision of this Court in the matter of Babulal Singh Vs. State of M.P. 2012 SCC OnLine MP 7899 to contend that the date of birth mentioned by the petitioner at the time of entry into service cannot be allowed to be changed.

5. The issue relating to entry of date of birth in the School Register for the first time is governed by The Madhya Pradesh Date of Birth (Entries in the School Register) Rules, 1973 (for short "The Rules of 1973"). Rule 3 of the Rules of 1973 requires the parent or the guardian to declare the date of birth of his ward for the first time into an approved or recognized school. Rule 4 of the Rules of 1973 stipulates that the date of birth as given in the declaration under rule 3 shall be registered under the signature of the head of the institution. Rule 6 of the Rules of 1973 prohibits change or alteration without sanction of the competent authority. Rule 7 of the Rules of 1973 relate to rectification of mistake, whereas, Rule 8 relate to correction or change in the date of birth. However, the scheme of the Rules of 1973 suggests that no application for correction in date of birth recorded in the school records shall be entertained under Rule 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.

6. In the present case, the date of birth of the petitioner is correctly recorded in the school when he had taken admission for the first time, therefore, Rules of 1973 would not be applicable in the present case. Even his school leaving certificate dated 04.07.2013 where he studied upto class 9th records the correct date of birth. It is only at the level of school, namely, Central Academy Convent, High School, Bhagat Singh Colony, Morena, the mistake has occurred wherefrom the petitioner did his High School Certificate Examination (10+2) i.e 10th Class in the year 2014. Even if the wrong date of birth is considered to be correct in the year 2014, the petitioner was minor or if the correct date of birth is considered, in that case also the petitioner is only aged about 16 years.

7. This court finds that it is not a situation where the correction or rectification cannot be done. The only issue that arises for consideration is whether in the present case this court should direct the respondent/Board to correct the date of birth of the petitioner when he made an application after expiry of three years

from the date of declaration of the result.

8. On the basis of the facts of the present case and taking into consideration the fact that the petitioner was minor when the mark sheet in question was issued to him in the year 2014, the Board should not have rejected the application only on the ground that he moved the application after expiry of three years from the date of declaration of the result. Moreso, the three years bar is not a statutory bar. The same is stipulated under the instructions of the Board dated 14.1.2015 which should not come in the way of the Board to entertain genuine grievance of a student. The Rules of 1973, which though are not applicable to the facts of the present case also do not prescribe any time limit. Hence, the instant writ petition is ALLOWED. The respondent/ Board is directed to consider the application of the petitioner on merits and issue fresh mark sheet to the petitioner mentioning his correct date of birth within a period of six weeks from the date of receipt of certified copy of this order. The writ petition is allowed in the aforesaid terms.