

(2016) 05 P&H CK 0413
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 12903 of 2015.

Sushil - Petitioner @HASH The State of Haryana and Others

Date of Decision : 31-05-2016

Acts Referred:

Citation : (2016) 4 PLR 683

Hon'ble Judges : Rakesh Kumar Jain, J.

Bench : Single Bench

Advocate : Mr. Vikas Kuthiala, Advocate, for the Petitioner; Mr. P.P. Chahar, DAG, Haryana, for the Respondents/State; Mr. Naveen Chopra, Advocate, for the Respondent No. 2; Mr. Puneet Sharma, Advocate, for the Respondent No. 3

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J. (Oral)—The petitioner has challenged the order dated 12.01.2015 passed by respondent No.2, rejecting his request to correct his date of birth in the Matriculation Grade Sheet dated 30.5.2013 from 6.5.1999 to 1.9.1997.

2. In brief, the petitioner has alleged that he was born on 1.9.1997 at Village and Post Office Sudkain Kalan, Tehsil Narwana, District Jind. The said date of birth was duly recorded in the Birth and Death Register maintained under Section 17 of the Births and Deaths Registration Act, 1969. The date of registration of his date of birth i.e. 01.9.1997 was 29.9.1997. It is alleged that inadvertently his date of birth has been wrongly recorded in the school record as 6.5.1999 by his father being an uneducated and illiterate person. The petitioner passed Class VII from Shaheed Udham Singh Senior Secondary School (Recognised) Sudkain Kalan, Jind in March, 2010. He was issued School Leaving Certificate on 16.4.2010 on the basis of which the entry of his date of birth was recorded in the subsequent school i.e. DAV Centenary Public School, Narwana, Distt. Jind, in which he took admission from Class VIII onwards. The petitioner passed his Matriculation examination from the school of respondent No.3 in 2013 and was issued Grade Sheet Performance dated 30.5.2013 in which his date of birth was mentioned as 6.5.1999 instead of 1.9.1997. The petitioner made request to

respondent No.2 through school on 10.12.2014 for correction of date of birth in his Matriculation Certificate from 6.5.1999 to 1.9.1997 and submitted all the relevant documents. However, respondent No.2 refused to correct the date of birth on the ground that after amendment of CBSE Rules more particularly by-law 69.2, the correction in the date of birth can be corrected within a period of one year of the date of declaration of result.

3. Learned counsel for the petitioner has submitted that the amendment has come in operation on 25.06.2015 but he has filed the application for correction of his date of birth on 10.12.2014 and at that time the period was of two years. It is further submitted that the said amendment of 25.6.2015 would operate prospectively because it is procedural and could not effect the application filed by the petitioner, who is now in 10+2 class. It is also submitted by counsel for the petitioner that he has not used his Matriculation certificate for any other purpose because he is still studying in the same school. In support of his submissions, he has relied upon a Division Bench Judgment of this Court rendered in "Resham Singh v. Union of India and others" 2008(1) RCR (Civil) 131, in which it has been held that if there is a conflict between the date of birth recorded in the Birth Register and School Leaving Register then entry in the birth certificate issued by the Registrar of Births and Deaths would prevail. He has also relied upon a decision of this Court rendered in LPA No.1613 of 2014 titled as "Ambika Kaul v. Central Board of Secondary Education and others" decided on 21.5.2016 in which this Court has held that by-law 69.2 is contemplated for correction in the clerical mistake. It is also observed therein that the person, who is suffering from legal disabilities including a minor can ask for correction of actual date of birth on the basis of certificate issued by the Registrar of Births and Deaths and at least after three years of attaining majority. The petitioner would attain majority next year but at the time of filing application he was minor.

4. Be that as it may, the objection has been raised by learned counsel for respondent No.2 in regard to amendment in bye-law 69.2 as per which period of two years has been reduced to one year for the purpose of filing application. There is no dispute about the amendment but the fact remains that the petitioner had filed application on 10.12.2014 which is before the amendment and thus the same has been filed in time.

5. In view therefore, the present petition is allowed and the impugned order is set aside and the direction is issued to respondent No.2 to pass an appropriate order in respect of correction of date of birth of the petitioner in matriculation certificate. Needful shall be done at the earliest preferably within a period of 30 days.