

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

THURSDAY, THE 31ST DAY OF MARCH 2022 / 10TH CHAITHRA, 1944

WP(C) NO. 6661 OF 2022

PETITIONER:

PRIYA ROY
AGED 29 YEARS
VALIYAVEETIL HOUSE, CANAL WARD, ARYAD SOUTH, ALAPPUZHA,
KERALA, PIN - 688007

BY ADVS.
JOBY CYRIAC
KURIAN K JOSE

RESPONDENTS:

- 1 THE CENTRAL BOARD OF SECONDARY EDUCATION
REPRESENTED BY ITS SECRETARY, HEAD OFFICE AT SHIKSHA
KENDRA, 2, COMMUNITY CENTRE, PREET VIHAR, DELHI, PIN -
110092
- 2 THE REGIONAL OFFICER
CBSE CHENNAI, NEW NO-3, OLD NO.1630 A, J BLOCK, 16TH
MAIN ROAD, ANNA NAGAR WEST, CHENNAI, PIN - 600040
- 3 THE PRINCIPAL
MATHA SENIOR SECONDARY SCHOOL, THUMPOLY, ALAPPUZHA, PIN
- 688007

BY ADV SRI.NIRMAL S., SC, CBSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO. 6661 OF 2022

Sathish Ninan, J.

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W.P.(C).No.6661 of 2022

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Dated this the 31st day of March, 2022

JUDGMENT

The request of the petitioner for correction of date of birth in the school records and the records of the Central Board of Secondary Education (CBSE), is not being considered, is the grievance of the petitioner.

2. Heard the learned counsel for the petitioner and Sri.Nirmal S., the learned standing counsel for the Board. Also perused the statement filed on behalf of the Board.

3. According to the petitioner, her date of birth is **06.10.1992**, but has been erroneously recorded in the school records as **06.10.1993**. The petitioner relies on Ext.P2 Aadhar Card, Ext.P2(a) Pan Card and Ext.P2(b) Passport, to substantiate the same.

4. The petitioner completed her 10th standard in the year

2009. She seeks for correction of the school records only at this distance of time. The petitioner has filed an additional affidavit before this Court explaining the delay. According to the petitioner, in the year 2015 she went to Russia to study medicine and returned in the year 2021. It is only while applying for the eligibility test for the FMGE test that she noticed the mistake.

5. The right of a student of the Board to seek for correction/change of the particulars in the school records and the certificates issued by the Board has been dealt with exhaustively by the Apex Court in *Jigyada Yadav v. CBSE [2021 (3) KLT 711 (SC)]*. The situations were divided into two categories namely, where “correction” is sought and, where “change” is sought. Under the category of “corrections” the Apex Court included cases where the certificates issued by the Board were required to be made consistent with the particulars mentioned in the school records. In the category of “change” of particulars, two situations were contemplated-firstly, where by the records of the Board provide particulars different from that provided in public documents like birth certificate,

aadhar card, election card etc. and secondly, a case of request for change of name consequent to the acquisition of a name by choice at a later point of time.

6. In the case at hand, the issue involved relates to “change” of particulars in the certificate issued by the CBSE to make it consistent with public documents and hence would fall within the first classification, of the second category. With regard to the said cases, the Apex Court observed that the legal presumption in relation to public documents as envisaged in the Indian Evidence Act, 1872 cannot be ignored by the Board. It was accordingly held that, request for effecting such changes in the certificates issued by the Board, to make it in conformity with the public documents, could be entertained. It was further observed by the Apex Court that the Board is entitled to impose reasonable conditions while considering such request. The conditions observed by the Apex Court are:-

(a) An affidavit containing a declaration and an undertaking to indemnify the Board.

(b) Payment of fee for administrative expenses.

(c) The Board may in a given case, depending on the facts, require effecting of public notice and publication in the official gazette.

(d) Require surrender of the original certificate.

(e) A fresh certificate issued may contain disclaimer and caption/annotation against the original entry. (Except in respect of change of name effected in exercise of 'right to be forgotten'.)

7. While it is true that there has been delay on the part of the petitioner in seeking for the “change”, the explanation offered by the petitioner could be accepted especially considering her age. Hence, I am of the opinion that the petitioner's request is liable to be considered.

8. Accordingly it is ordered that, on the petitioner submitting a fresh application for change of date of birth through the third respondent school on complying with the requirements as above, then the second respondent shall consider the same in the light of the judgment of the Apex Court referred to supra, within a month from the date of receipt of a copy of this judgment.

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Writ petition is disposed of as above.

Sd/-
SATHISH NINAN
JUDGE

rsr

WP(C) NO. 6661 OF 2022**APPENDIX OF WP(C) 6661/2022**

PETITIONER EXHIBITS

Exhibit P1	EXT P1-CORRIGENDUM (IN LIEU OF EARLIER PUBLIC NOTICE DATED 01-02-2022), FILE NO. R.15011/02/2022-REGN./, DATED 16-02-2022 ISSUED BY THE NATIONAL MEDICAL COMMISSION
Exhibit P2	EXT P2 - AADHAAR CARD NO. 2363 8178 0686.
Exhibit P2(a)	EXT P2(A) - PAN CARD NO. EJJPR1758C.
Exhibit P2(b)	EXT P2(B) - TRUE COPY OF PASSPORT NO. K1063191
Exhibit P3	EXT P3 - TRUE COPY OF APPLICATION DATED 02-11-2021 SUBMITTED BY THE 3RD RESPONDENT ALONG WITH DOCUMENTS BEFORE THE 2ND RESPONDENT.
Exhibit P4	TRUE COPY OF DEATH CERTIFICATE OF PETITIONER'S MOTHER