

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11460 of 2019

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Kumari Akriti, Aged about 19 years, Gender- Female, Daughter of Kumar Nagendra, resident of 4M-217, Chanchla Bhawan, Bahadurpur Housing Colony, P.S.- Agamkuan, District- Patna- 26.

... .. Petitioner/s

Versus

1. The Patna Municipal Corporation through Town Commissioner P.M.C., Patna.
2. The Registrar, Births and Deaths, P.M.C. Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar Sinha, Sr. Advocate
Mr. Pramod Kumar Sinha, Advocate

For the Respondent/s : Mr. Prasoon Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 22-11-2023

Heard Mr. Devendra Kumar Sinha, learned senior counsel assisted by Mr. Pramod Kumar Sinha, learned counsel appearing on behalf of the petitioner and Mr. Prasoon Sinha, learned counsel appearing on behalf of the respondent/s.

2. The present writ petition has been filed by the petitioner for the following reliefs:

“That this application is directed for setting aside the letter No. 3046 dated 06.03.2019 where under and where by birth certificate of Kumari Akriti (petitioner) showing her date of birth as 12-12-1997 has been held correct and issued the birth certificates showing her date of birth as 12-12-1998 and 12-12-1999 have been cancelled. Further for a direction upon the respondent authorities of Patna Municipal Corporation, Patna to affirm the birth certificate of petitioner as 12-12-1999 as correct, valid and genuine date of birth, which is the real date of birth of the petitioner mentioned in her Academic Certificate.”



3. Learned counsel for the petitioner submits that, in the year 2012, father of the petitioner applied for issuance of passport in the name of the petitioner in External Affairs Ministry, Government of India appending the birth certificate of the petitioner. However, it came to light that the date of birth of the petitioner has erroneously been mentioned as 12-12-1997 instead of 12-12-1999, in the aforementioned birth certificate. Subsequently, passport was issued by the passport authority on 14.05.2012, but the date of birth of the petitioner has incorrectly been mentioned as 12-12-1998, in the said unused passport of the petitioner, which was altogether a different date of birth.

4. Learned counsel further submits that the petitioner, Kumari Akriti, had taken admission in the Krishna Niketal Girl's School in class IVth on 09.02.2008. The actual date of birth of the petitioner is 12-12-1999, which is evident from the immunization card and admission details contained in her school records. The Admission Register contains her date of birth mentioned as 12.12.1999. The documents pertaining to her Central Board of Secondary School Examination (Class-X) 2015, also contain her date of birth as 12.12.1999.

5. Heard the parties.

6. Petitioner claims her date of birth to be



12.12.1999, as correct date of birth, mentioned in the certificate issued by Central Board of Secondary Education which is a public document.

7. The issue regarding determination of the correct date of birth based on several documents has come before the Apex Court from time to time. In **Ashwani Kumar Saxena v. State of M.P.** reported in **(2012) 9 SCC, 750** the court relied on the admission register of the school as clinching evidence. The reasoning that the parents would have given a wrong date of birth was taken to be a specious plea and disbelieved.

8. In the case of **Pradeep Kumar v. State of U.P.**, reported in **1995 Supp (4) SCC 419** the court has relied upon the School certificate as well as the age indicated by medical examination as both of them were consistent and indicated the same age.

9. After the order passed by the Kerala High Court in case of **Jayakumar v. The Regional Transport Officer and Others (W.P. No. 7073 of 2015 (H))**, the Ministry of External Affairs, Government of India issued guidelines regarding change / correction of Date of Birth and in this regard relevant circular needs a careful consideration in deciding the claim of the petitioner.



10. One such circular was Circular No. VI/401/2/5/2001 dated 26.11.2015 issued by the Ministry of External Affairs, Government of India, in which Passport Officer has been authorized to take final decision in case of application filed with respect to change/correction of date of birth entries in the passport of an applicant already held by him/her without obtaining any declaratory order from a competent Civil Court.

11. The Clause 4(iii) of the Memorandum being Circular No. VI/401/2/5/2001 dated 26.11.2015 is very specific and goes to indicate that passport officer has been authorized to take final decision in case of applications filed with request to change/correction of date of birth entries in the passport of an applicant held by him/her.

12. The Clause 4 (iii) of the Circular No. VI/401/2/5/2001 dated 26.11.2015 provides for such cases where the applicant comes to PIA for change/correction with regard to date of birth in the passport after a period of five years from the date of issue of passport with alleged wrong date of birth, no such request shall be entertained/accepted by the PIA and be rejected out rightly. The Clause 4(iii) of the Memorandum being Circular No. VI/401/2/5/2001 dated



26.11.2015 is reproduced as under:

“(iii) The cases where the applicant comes to PIA for change/correction with regard to date of birth in the Passport after a period of five years from the date of issue of passport with alleged wrong date of birth, no such request shall be entertained/accepted by the PIA and be rejected out rightly.

However, an exemption in this regard may be given to an applicant who was minor at the time when passport with alleged wrong date of birth was issued to him. As and when such an applicant after attaining the age of majority applies for the passport with the request to change the date of birth in the passport issued to when he was minor, the PIA irrespective of the duration of the issuance of passport may accept his case for consideration and if is satisfied with the claim and document(s) submitted by the applicant, may accept his request for change of date of birth in the passport without imposition of any penalty.”
(emphasis supplied)

13. Recently Hon’ble Madhya Pradesh High Court in case of **Arooshi Budholia v. Union of India and others (W.P. No. 19675 of 2022)** had directed the Passport Officer to consider the application of the petitioner for re- issuance of a fresh passport holding that the case of the petitioner falls under Para 4 (iii) of the 2015 guidelines contained in Circular No. VI/401/2/5/2001 dated 26.11.2015.

14. Considering the totality of aforesaid facts and circumstances and in view of the guidelines of the Ministry of External Affairs contained in Circular No. VI/401/2/5/2001 dated 26.11.2015, the Regional Passport Officer, Patna is



directed to consider the application of the petitioner for issuance of fresh passport with correct date of birth, as mentioned on the certificate issued by the Central Board of Secondary Education and after having verified the genuineness of the said Certificate issued by the Central Board of Secondary Education, expeditiously within a period of four weeks from the date of receipt of a copy of this order.

15. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	23.11.2023
Transmission Date	N/A

