

2025:PHHC:121934



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.606 of 2021 (O&M)

Reserved on: September 03, 2025

Pronounced on: September 08, 2025

Ankit Mor

. . . . Appellant

Vs.

Central Board of Secondary Education
(CBSE) and another

. . . . Respondents

*** * * ***

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By:- Mr. Arun Kumar Singla, Advocate for the appellant.

Mr. Kannan Malik, Advocate for respondent No.1.

None for respondent No.2.

DEEPAK GUPTA, J.

Background: Plaintiff of the case has approached this Court against reversal, in as much as his suit for correction of date of birth was decreed by the trial Court on 02.04.2019, but the appeal filed by the Central Board of Secondary Education ['CBSE']-defendant No.2 (*respondent No.1 herein*), was accepted by the First Appellate Court on 15.03.2021 and the suit was dismissed being barred by limitation.

2. In order to avoid confusion, the parties shall be referred as per their status before the trial Court.

3. **Plaintiff's Case:** According to Plaintiff, his actual date of birth is 11.12.1996 as recorded in his Birth Certificate. He passed 10th class from defendant No.1 -Raunaq Public School, Ganaur (*respondent No.2 herein*) and came to know that his date of birth in the said 10th Class Certificate issued by defendant No.2, i.e. Central Board of Secondary Education (*respondent No.1 herein*) is recorded as 11.12.1994 instead of 11.12.1996. He made several

requests to the defendants to make the necessary correction regarding his date of birth in the 10th Class Certificate, but defendants did not pay any heed, compelling him to file the suit seeking necessary declaration and mandatory injunction

4. **Stand of Defendants:** The defendant N: 2 - CBSE was proceeded *ex parte* before the trial Court. Defendant No.1 - school took the stand that date of birth as 11.12.1994 was recorded in the school record based upon the information supplied by the parents of the plaintiff at the time of his admission as they had submitted a Transfer Certificate of the previous school, in which the date of birth of plaintiff was mentioned as 11.12.1994.

5. **Trial Court Findings:** The trial Court found that as per the Birth Certificate (Ex.P1) issued by the Registrar, Birth and Death, the date of birth was 11.12.1996. By relying upon "**Resham Singh V. Union of India and another**", 2009 (1) Civil Court Cases 653 (P&H) (DB), it was held that in case of a contradiction between date of birth certificate and the education record, primacy has to be accorded to the Birth Certificate and as such, the trial Court decreed the suit for declaration and mandatory injunction on 02.04.2019.

6. **Appellate Court Findings:** However, in the appeal filed by the CBSE, the Appellate Court took the view that plaintiff had approached the Court beyond three years after date of attaining maturity and as such, the suit was barred by limitation. The Appellate Court relied upon "**Ambika Kaul v. CBSE & Ors.**" 2015(3) SCT 250 (P&H) . As such, accepting the appeal of the CBSE, the Appellate Court dismissed the suit on 15.03.2021.

7. **Contentions of appellant-plaintiff:** Assailing the aforesaid reversal of findings, it is contended by learned counsel for the appellant-plaintiff that the actual date of birth of the plaintiff being 11.12.1996 as per the Birth Certificate issued by a public authority, primacy has to be attached to it and that plaintiff cannot be non-suited on the ground of a limitation, as getting his date of birth corrected is his fundamental right. Learned counsel has referred to "**Jigya Yadav (Minor) (Through Guardian/Father Hari Singh)**

v. CBSE (Central Board of Secondary Education) and Ors.”, 2021(7) SCC 535 and **“Prema Evelyn Dacruz v. Union of India and others”, 2022 SCC OnLine (Delhi) 4095.**

8. **Contentions of Defendants - respondents:** On the other hand, learned counsel for the respondent -Board contends that the Appellate Court has rightly held the suit to be barred by limitation and so, there is no scope for interference. Learned counsel has relied upon:

- *“Ambika Kaul v. Central Board of Secondary Education & Ors.” 2015(3) SCT 350 (P&H)*
- *“Abhimanyu v. Central Board of Secondary Education” LPA 482 of 2015.*
- *“Abhishek Kumar v. Central Board of Secondary Education Delhi”, RSA No.263 of 2017.*
- *“Simran v. Regional Officer, Central Board of Secondary Education”, CWP No.16029 of 2019.*
- *“Ankit Chahal v. Central Board of Secondary Education & Ors.” RSA No.3985 of 2015.*

9. This Court has considered submissions of both the sides and has appraised the paper-book.

10. **This Court’s Analysis:**

[Primacy to public documents] - The authenticity of Birth Certificate (Ex.P-1) issued by the Registrar, Birth and Death, has not been assailed by learned counsel for the respondent - Board before this Court. In the said Birth Certificate, date of birth of the plaintiff is mentioned as 11.12.1996. On the other hand, the school certificate reveals the date of birth of plaintiff as 11.12.1994. Plaintiff seeks declaration to make correction in the school record as per the Birth Certificate (Ex.P1).

11. In **“Cidco v. Vasudha Gorakhnath Mandevlekar”, 2010 (1) SCC 301**, it has been held by Hon'ble Supreme Court that:

“The Deaths and Births register maintained by the statutory authorities raises a presumption of correctness. Such entries made in the statutory

registers are admissible in evidence in terms of Section 35 of the Indian Evidence Act. It would prevail over an entry made in the school register, particularly, in absence of any proof that same was recorded at the instance of the guardian of the respondent. [See ***Birad Mal Singhvi v. Anand Purohit AIR 1988 SC 1796***].”

12. Taking a similar view, a Division Bench of this Court in ***Resham Singh's case (supra)*** held as under:

“.....it is also required to be noted that normally when there is a discrepancy in the date of birth in the certificate issued by the competent authority under the provisions of the Births and Deaths Registration Act as well as school leaving certificate, in that case, primacy is required to be given to the birth certificate issued by the Municipality and the competent Government Authority under the Births and Deaths Registration Act, unless it is on verification of such document, a doubt is created and/or authority is not satisfied with regard to the genuineness of the same.”

13. Thus, as per the legal position, entries in the Births and Deaths Register maintained by statutory authorities carry a presumption of correctness under Section 35 of the Evidence Act. Such entries prevail over school records regarding date of birth. When there is a conflict between the birth certificate (issued under the Births and Deaths Registration Act) and a school leaving certificate, primacy must be given to the birth certificate, unless its genuineness is doubtful or shown to be unreliable on verification.

14. In the present case, it has already been noticed that the defendant-Board has not assailed the correctness and genuineness of the Birth Certificate (Ex.P1) showing the date of birth of the plaintiff to be 11.12.1996. As such, primacy is to be accorded to the said certificate taking the actual date of birth of plaintiff as 11.12.1996.

15. ***The Issue of Limitation:*** So, the sole question to be determined is as to whether the suit seeking declaration regarding correction of date of birth in educational record, though instituted by the appellant – plaintiff after

having attained the age of 21 years, is liable to be dismissed as barred by limitation.

16. A similar question was considered by the Division Bench of this Court in ***Ambika Kaul Vs. CBSE 2015 (3) SCT 350***, wherein it was held that the date of birth given in the Matriculation cannot be corrected in any case beyond three years of attaining the majority. The relevant extract of the judgment reads as under:-

“The right to seek actual date of birth has to be exercised within three years of attaining the majority on the basis of the birth certificate issued by the Registrar of Births and Deaths. But, after expiry of period of three years from the cessation of disability, no person can rely upon the birth certificate. He is bound by the date given in the matriculation certificate. Therefore, in any case, the right of a person to seek actual date of birth on the basis of entry in the birth certificate by the Registrar of Births and Deaths is three years after attaining the majority on the basis of date of birth in the said certificate.”

Ambika Kaul's case (supra) has been relied by coordinate benches of this court in all other cases cited by Ld. Counsel for the respondent board.

17. The Hon'ble Supreme Court has recently considered the similar issue in ***Jigyada Yadav's case (supra)***. In fact, numerous civil appeals raising similar issues were disposed of by Hon'ble Supreme Court by way of this decision. After considering the bye-laws of the defendant – Board, i.e. CBSE, Hon'ble Supreme Court concluded as under:

“CONCLUSIONS AND DIRECTIONS TO CBSE

169. Although we have discussed the broad issues canvassed before us, in the ultimate analysis the real dispute requiring resolution is about the nature of correction or change, as the case may be, permissible to be carried by the CBSE at the instance of the student including past student. As noted earlier, broadly, two situations would arise.

170. The first is where the incumbent wants correction in the certificate issued by the CBSE to be made consistent with the particulars mentioned in the school records. As we have held there is no reason for the CBSE to turn down such

request or attach any precondition except reasonable period of limitation and keeping in mind the period for which the CBSE has to maintain its record under the extant regulations. While doing so, it can certainly insist for compliance of other conditions by the incumbent, such as, to file sworn affidavit making necessary declaration and to indemnify the CBSE from any claim against it by third party because of such correction. The CBSE would be justified in insisting for surrender/return of the original certificate (or duplicate original certificate, as the case may be) issued by it for replacing it with the fresh certificate to be issued after carrying out necessary corrections with caption/annotation against the changes carried out and the date of such correction. It may retain the original entries as it is except in respect of correction of name effected in exercise of right to be forgotten. The fresh certificate may also contain disclaimer that the CBSE cannot be held responsible for the genuineness of the school records produced by the incumbent in support of the request to record correction in the original CBSE certificate. The CBSE can also insist for reasonable prescribed fees to be paid by the incumbent in lieu of administrative expenses for issuing fresh certificate. At the same time, the CBSE cannot impose precondition of applying for correction consistent with the school records only before publication of results. Such a condition, as we have held, would be unreasonable and excessive. We repeat that if the application for recording correction is based on the school records as it obtained at the time of publication of results and issue of certificate by the CBSE, it will be open to CBSE to provide for reasonable limitation period within which the application for recording correction in certificate issued by it may be entertained by it. However, if the request for recording change is based on changed school records post the publication of results and issue of certificate by the CBSE, the candidate would be entitled to apply for recording such a change within the reasonable limitation period prescribed by the CBSE. In this situation, the candidate cannot claim that she had no knowledge about the change recorded in the school records because such a change would occur obviously at her instance. If she makes such application for correction of the school records, she is expected to apply to the CBSE immediately after the school records are modified and which ought to be done within a reasonable time. Indeed, it would be open to the CBSE to reject the application in the event the period for preservation of official records under the extant regulations had expired and no record of the candidate concerned is traceable or can be reconstructed. In the

case of subsequent amendment of school records, that may occur due to different reasons including because of choice exercised by the candidate regarding change of name. To put it differently, request for recording of correction in the certificate issued by the CBSE to bring it in line with the school records of the incumbent need not be limited to application made prior to publication of examination results of the CBSE.

171. As regards request for change of particulars in the certificate issued by the CBSE, it pre-supposes that the particulars intended to be recorded in the CBSE certificate are not consistent with the school records. Such a request could be made in **two different situations**. The first is **on the basis of public documents like Birth Certificate, Aadhaar Card/Election Card**, etc. and to incorporate change in the CBSE certificate consistent therewith. The second possibility is when the request for change is due to the acquired name by choice at a later point of time. That change need not be backed by public documents pertaining to the candidate.

(a) Reverting to the first category, as noted earlier, there is a legal presumption in relation to the public documents as envisaged in the 1872 Act. Such public documents, therefore, cannot be ignored by the CBSE. Taking note of those documents, the CBSE may entertain the request for recording change in the certificate issued by it. This, however, need not be unconditional, but subject to certain reasonable conditions to be fulfilled by the applicant as may be prescribed by the CBSE, such as, of furnishing sworn affidavit containing declaration and to indemnify the CBSE and upon payment of prescribed fees in lieu of administrative expenses. The CBSE may also insist for issuing Public Notice and publication in the Official Gazette before recording the change in the fresh certificate to be issued by it upon surrender/return of the original certificate (or duplicate original certificate, as the case may be) by the applicant. The fresh certificate 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) indicating the date on which change has been recorded and the basis thereof. In other words, the fresh certificate may retain original particulars while recording the change along with caption/annotation referred to above (except in respect of change of name effected in exercise of right to be forgotten).

(b) However, in the latter situation where the change is to be effected on the

basis of new acquired name without any supporting school record or public document, that request may be entertained upon insisting for prior permission/declaration by a Court of law in that regard and publication in the Official Gazette including surrender/return of original certificate (or duplicate original certificate, as the case may be) issued by CBSE and upon payment of prescribed fees. The fresh certificate as in other situations referred to above, retain the original entry (except in respect of change of name effected in exercise of right to be forgotten) and to insert caption/annotation indicating the date on which it has been recorded and other details including disclaimer of CBSE. This is so because the CBSE is not required to adjudicate nor has the mechanism to verify the correctness of the claim of the applicant.”

18. Thus, Hon'ble Supreme Court in *Jigyada Yadav's case (supra)* has elaborately dealt with the issue of correction/change of the particulars in the educational records. The Court drew a distinction between “*correction*” (rectification of error to bring the record in line with the authentic public document) and “*change*” (substitution of one entry with the different one). When the correction sought is based on public documents (e.g., Birth Certificate), such documents carry legal presumption of correctness under the Evidence Act, 1872 and CBSE cannot ignore them, though CBSE may allow the correction, subject to reasonable conditions like (i) Sworn affidavit with declaration and indemnity, (ii) Payment of prescribed fees, (iii) Publication in Gazette/official notice, (iv) Surrender of original certificate; and (v) Fresh certificate may retain original entry with a caption/annotation showing date and basis of change. However, when the change sought is based on acquired particulars by choice (e.g., change of name without supporting documents), then such a request requires prior court declaration and Gazette publication, besides original certificate to be surrendered and fresh certificate to retain old entry with annotation/disclaimer (except in case of “right to be forgotten”). Thus, underlying principle is that CBSE is not an adjudicatory body; it can only act on the strength of authentic public documents or judicial declarations. Besides, changes are permitted, but with safeguards (affidavit, indemnity, fees, annotation) to maintain integrity of records.

19. The contention of the respondent - Board that suit is barred by limitation, cannot be considered in such like facts and circumstances. The Hon'ble Supreme Court in *Jigya Yadav's case (supra)* has observed as under:-

“125. The limitation as regards maximum period up to which changes can be permitted also requires a different approach. Upon receiving the certificates, the student would naturally be put to notice of the particulars of certificates. Due to young age and inadvertence including being casual and indolent, a student may fail to identify the errors or to understand the probable impact of those errors and accordingly, may not apply for rectification immediately. It is also possible that a student may not have to use the certificates immediately after passing out and by the time she uses them, the limitation period for correction may elapse. Therefore, a realistic time for permitting corrections is very important. Indeed, it can be commensurate with the statutory or mandatory period up to which CBSE is obliged to preserve its old record.

126. However, we need not explore upon the question as to whether the exercise of a fundamental right can be foreclosed by prescribing a rigid period of limitation. In case of any ordinary civil rights, it is important that the action for enforcement of such rights is initiated in prescribed time and consistency is maintained but is it permissible to say the same about fundamental rights? The rights which are recognised as fundamental under the Constitution are "preferred or chosen freedoms" and a very sensitive and realistic approach has to be taken in such matters. We wonder whether after the lapse of prescribed time, let us say 3 years, there could be no reasonable and legitimate circumstances to warrant change of name.”

20. Thus, Hon'ble Supreme Court has categorically held that the right to seek correction of particulars such as date of birth is integral to the right to identity under Article 21 of the Constitution and cannot be curtailed by limitation clauses in CBSE bye-laws. Restrictive bye-laws were read down, and it was clarified that genuine requests supported by authentic documents like a Birth Certificate must be considered despite delay. Since students may, owing to age, inadvertence, or lack of immediate use, notice errors only much later and so, a rigid time limit is unrealistic. Corrections should remain permissible for as long as CBSE preserves its records. Unlike ordinary civil

rights, fundamental rights cannot be foreclosed merely by lapse of time; a sensitive and realistic approach is required.

21. The case of the plaintiff of the present case is covered by the first category as referred in para No.171 of the judgment of Hon'ble Supreme Court as referred above, inasmuch as plaintiff wants to effect the change in his date of birth on the basis of public document, i.e. his Birth Certificate (Ex.P1) from 11.12.1994 to 11.12.1996. As held by Hon'ble Supreme Court the Board cannot refuse to accede to the said request, although it can impose the conditions as mentioned in para No.171 (a) of the cited judgment as above.

22. Adverting to the facts of the present case, the relief sought by the plaintiff -appellant is covered by the first category as referred in para No.171 of the judgment of Hon'ble Supreme Court as reproduced above, in as-much-as plaintiff wants correction in his date of birth entry in school records on the basis of public document i.e. his Birth Certificate (Ex.P1) from '11.12.1994 to '11.12.1996. This is a public document of unimpeachable character and cannot be ignored so as to deny the claim sought by the Plaintiff, which falls within the category of 'correction based on public document' As held by the Hon'ble Supreme Court, the Board cannot refuse to accede to the said request, although it can impose the conditions as mentioned in Para No.171 (a) of the cited judgment as above. As such, it is held that the Appellate Court erred in non-suiting the plaintiff-appellant solely on the grounds of limitation.

23. Besides above, learned counsel for the respondent—CBSE has not been able to point out any circumstance, where the appellant—plaintiff derived undue advantage from the incorrect entry of his date of birth in the school record or in the certificate issued by CBSE. There is nothing on record to suggest that he secured admission to any educational institution, obtained any public employment, or availed any other benefit on the basis of the date of birth as reflected in the school certificate. In the absence of any such material, even the plea of estoppel cannot be applied. The doctrine of

estoppel applies only when a party, having taken advantage of a particular representation, subsequently turns around to resile from it to the detriment of the opposite party. Since the appellant has not altered his position nor gained any benefit on the basis of the disputed entry, no prejudice is caused to the respondent–Board. Therefore, the principle of estoppel has no application in the facts of the present case.

24. **Conclusions:** On account of the entire discussion as above, it is held that the judgment passed by the First Appellate Court cannot be sustained. The same is hereby set aside. The judgment passed by the trial Court dated 02.04.2019 is hereby restored, declaring the actual date of birth of the plaintiff-appellant as 11.12.1996, which is liable to be corrected in the record maintained by the defendants-respondents and the certificates issued by any of them. The trial Court has rightly granted the consequential relief of mandatory injunction, directing the defendants to correct the date of birth of the plaintiff in his 10th Class marks sheet and all relevant record pertaining to him at his expenses.

25. The appeal is accordingly allowed. The pending application(s), if any, also stand(s) disposed of.

September 08, 2025

Sarita

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?	Yes
Whether reportable?	Yes