

Sandeep Kumar Vs. Madhyamik Shiksha Parishad and ors.

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Court : Allahabad

Decided On : Dec-19-2003

Reported in : (2004)1UPLBEC1014

Judge : Rakesh Tiwari, J.

Acts : Uttar Pradesh Intermediate Education Act, 1921 - Regulation 7

Appeal No. : C.M.W.P. No. 39301 of 2001

Appellant : Sandeep Kumar

Respondent : Madhyamik Shiksha Parishad and ors.

Advocate for Def. : A.K. Dwivedi, Adv. and ;S.C.

Advocate for Pet/Ap. : K.M. Misra and ;H.R. Misra, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Rakesh Tiwari, J.

1. Heard counsel for the parties and perused the record.

2. The petitioner appeared in High School Examination conducted by the Board of High School and Intermediate Education, U. P., Allahabad in the year 1991 with Roll No. 0935203. He passed the said examination as a regular student from Sri Krishna Inter College, Semara, Katkuian District Deoria. The Board through the college gave High School Pass Certificate to him on 30.8.1991.

3. He has sought a writ of mandamus commanding the respondents to issue his High School Certificate after rectifying the mistake in his date of birth as 7.5.1977 instead of 7.5.1975 and spelling of his name as 'Sandeep Kumar' in place of Sadeep Kumar.

4. The mistake in the date of birth and spelling of the name of the petitioner was detected in the certificate after it was received in the College. The Principal of the College sent a letter dated 29.8.1991 for correction of date of birth of the petitioner as 7.5.1977 in place of 7.5.1975 and for correction of his name as 'Sandeep Kumar' in place of 'Sadeep Kumar'. A reminder was also sent by the Principal vide letter dated 20.5.1994 addressed to the Regional Secretary, Regional Office, Varanasi. The District Inspector of Schools, Deoria also conducted an enquiry. After verifying the original records of the S. K. Intermediate College, Semara, Katkuian from where the petitioner had appeared in High School Examination as a regular student, he gave his report recording a categorical finding that mistakes have been committed by Madhyamik Shiksha Parishad, U. P., respondent No. 1, while issuing the High School Certificate of the petitioner in which his name and date of birth was incorrectly given. A true copy of the Enquiry Report submitted by the District Inspector of Schools, Deoria has already been enclosed as Annexure-3 to the writ petition. In the Enquiry report a recommendation has also been made by the District Inspector of Schools, Deoria for correcting the name and date of birth of the petitioner in his High School Certificate, The Board rejected the application of the petitioner for correction only on the ground that it was barred by time in view of Part-II-B, Chapter 3, Regulation 7 of the Regulations framed under the U. P. Intermediate Education Act (in short the Act) as the application was alleged to have been presented on 30.8.1994 after the candidate had passed the High School Examination in 1991.

5. The Secretary (respondent No. 1) who is present in Court today has produced the original record in Court. From the record it appears that the Principal gave information to the Regional Secretary at Varanasi on 29.8.1991 drawing his attention to the aforesaid clerical mistake in the certificate. From the record it is evident that the respondents have arbitrarily and illegally rejected the petitioner's representation on the ground of delay as from the Enquiry Report submitted by the District Inspector of Schools, Deoria itself it is crystal clear that no fault can be attributed to the petitioner and, therefore, if the mistake has been committed by the answering respondents themselves they cannot be permitted to take advantage of their own wrong in rejecting the representation of the petitioner on the ground of being time barred taking shelter of Regulation 7 of Chapter III.

6. Regulation 7 aforesaid is only directory and not mandatory and in appropriate cases the competent authority of the Parishad can order for correction of date of birth even if limitation period of two years has expired as the mistakes in the High School Certificate are purely clerical and typographical. I am supported in my view by a Division Bench decision of this Court rendered in *Miss Sandhya and Ors. v. State of U. P.*, 1982 UPLBEC 646. In this decision the Court has dealt with similar Regulation 10 (4) of the Regulations framed under the Act and held Regulation 10 (4) to be directory as they were only procedural. In that case roll numbers were allotted to the petitioners and they were permitted to appear in the examination. Thereafter, the Board under the provisions of Sub-clause (4) of Regulation 10 of the Regulations withheld the results of the petitioners. Hence in the instant case the provisions of Regulation 7 are not attracted at all. Since the application for correction had been submitted on 29.8.1991 and reminder was also given on 20.5.1994, the application for correction was not beyond time.

7. In view of the aforesaid discussion the petition is allowed. The Secretary is directed to issue the certificate and marks sheet after necessary corrections within a period, of one month from today.