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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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***Judgment reserved on: 05.05.2025******Judgment pronounced on: 04.06.2025***

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LPA 171/2023 &amp; CM APPL. 11492/2023 (additional documents)

CENTRAL BOARD OF SECONDARY EDUCATION

.....Appellant

Through: Mr. M.A. Niyazi, Ms. Anamika Ghai Niyazi, Ms. Kirti Bhardwaj, Mr. Arquam Ali and Ms. Nohmat Sethi, Advocates.

versus

PREMA EVELYN D CRUZ AND ANR .....Respondents

Through: Mr. Rony O. John and Mr. Arshdeep Singh, Advocates.

**CORAM:****HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR****J U D G M E N T****HARISH VAIDYANATHAN SHANKAR, J.**

1. The present Appeal under Clause 10 of the Letters Patent challenges the **Judgment dated 25.11.2022<sup>1</sup>** passed by the learned Single Judge in W.P.(C) 2663/2022 titled as “*Prema Evelyn Dcruz vs. Union of India and Ors.*”.

2. Briefly put, the entire dispute revolves around the date of birth of Respondent No. 1 herein in the records of the Appellant. By way of W.P.(C) 2663/2022, in which the impugned Judgment came to be passed, the following reliefs were sought by Respondent No.1: -

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<sup>1</sup>Impugned Judgment



*“(A) Issue a Writ of Mandamus or any other Writ, Order or Direction directing the Respondents to correct the date of birth of the Petitioner in the passing certificate of the All India Secondary School Examination number 00289915 dated 07.06.1999 and any other document issued by the Respondents relying upon the aforesaid certificate, after recording her correct date of birth, i.e., 27.02.1981 (as recorded in the Birth Certificate issued under the Registration of Births and Deaths Act, 1969) pursuant to her application dated 17.11.2021, and to issue a fresh certificate to the Petitioner after making the aforementioned correction;*

*(B) In the alternative and without prejudice to the above, issue a Writ of Mandamus or any other Writ, Order or Direction directing Respondent No. 2 to decide the Petitioner's application dated 17.11.2021, for change in date of birth in passing certificate of the All India Secondary School Examination number 00289915, after recording her correct date of birth i.e., 27.02.1981, in accordance with the law laid down by this Hon'ble Court and the Hon'ble Supreme Court.*

*(C) Issue an appropriate Writ, Order or Direction declaring that the Petitioner's Birth Certificate, issued by Greater Chennai Corporation (under the Registration of Births and Deaths Act 1969) records her correct date of birth, i.e., 27.02.1981.*

*(D) Grant such further and other reliefs as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.”*

3. The said petition relied upon the birth certificate issued by Respondent No.2, *namely*, the Greater Chennai Corporation. The said birth certificate is not disputed by the Appellant. There is no challenge to the genuineness of the birth certificate issued and uploaded on the public website of Respondent No. 2.

4. While numerous grounds might have been taken in the appeal, the learned counsel for the Appellant has restricted his arguments to a singular point which is in respect of the request for the correction in the date of birth in the **Central Board of Secondary Education**<sup>2</sup> records being beyond the period of limitation as prescribed under Rule

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<sup>2</sup>CBSE



69.2 in the Examination Bye-laws 1995<sup>3</sup> of the CBSE, which reads as under:-

**“69.2 Change/Correction in Date of Birth:**

(i) No change in the date of birth once recorded in the Board's records shall be made. However, corrections to correct typographical and other errors to make the certificate consistent with the school records can be made provided that corrections in the school records should not have been made after the submission of application form for admission to Examination to the Board.

(ii) Such correction in Date of Birth of a candidate in case of genuine clerical errors will be made under orders of the Chairman where it is established to the satisfaction of the Chairman that the wrong entry was made erroneously in the list of candidates/application form of the candidate for the examination ”.

(iii) Request for correction in Date of Birth shall be forwarded by the head of the School alongwith attested Photostat copies of:

(a) application for admission of the candidate to the School;

(b) portion of the page of admission and withdrawal register where entry in date of birth has been made; and

(c) the School Leaving Certificate of the previous school submitted at the time of admission.

(iv) the application for correction in date of birth duly forwarded by the Head of School alongwith documents mentioned in bye laws 69.2(iii) shall be entertained by the Board only within two years of the date of declaration result of Class X examination. No correction whatsoever shall be made on application submitted after the said period of two years. This will be effective from the examination to be held in March, 1995.”

**(emphasis supplied)**

5. Learned counsel for the Appellant further submitted that as per the Bye-laws of the CBSE, in addition to the request being beyond limitation, there is also a mandate for the CBSE to maintain its records in a particular manner which included the Weeding Out Rules, 1998, which provided for documents to be weeded out/subject to destruction after the passage of ten years, meaning thereby, that there are no

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<sup>3</sup> the Bye-laws



records maintained by the Appellant in respect of Respondent No.1 herein.

6. The learned counsel for the Appellant has strenuously relied upon the judgment of the Apex Court in the case of **Jigya Yadav v. CBSE<sup>4</sup>**, and in particular the following paragraphs to bolster his contentions:-

*“118. To put it differently, the bye-laws of the Board have the force of law and must be regarded as such for all legal purposes. It would serve no meaningful purpose to hold these authoritative set of rules originating from an instrumentality of the State as mere contractual terms despite there being overwhelming public interest in their just application.*

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*193.3. 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.”*

7. Taking the support of the said paragraphs, learned counsel for the Appellant would contend that the learned Single Judge has not considered the aspect of whether the said request was made beyond the prescribed limitation period and also not considered the aspect of weeding out of documents.

8. The learned counsel for the Appellant would also seek sustenance from the judgment of the Hon'ble Supreme Court in **Board of Secondary Education of Assam v. Md. Sarifuz Zaman and Ors.<sup>5</sup>**, and in particular paragraph 10, which reads as under:-

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<sup>4</sup>(2021) 7 SCC 535

<sup>5</sup>(2003) 12 SCC 408



*“10. ... People, institutions and government departments, etc. - all attach a very high degree of reliability, near finality, to the entries made in the certificates issued by the Board. The frequent exercise of power to correct entries in certificates and that too without any limitation on exercise of such power would render the power itself arbitrary and may result in eroding the credibility of certificates issued by the Board. We, therefore, find it difficult to uphold the contention that the applicant’s seeking correction of entries in such certificates have any such right or vested right.”*

9. We have heard learned counsel for the Respondent and have also perused the Judgment of the learned Single Judge. The Respondent would argue that the aspect of limitation or weeding out of documents would not come in the way of the CBSE making any correction in the records based on public documents.

10. The learned counsel for the Respondent would also draw the attention of this Court to paragraph 38 of the impugned Judgment wherein the learned Single Judge has held that the incorrect date of birth as entered in the CBSE records does not appear to be a clerical or typographical error but is the result of a genuine mistake as the examination forms were filled up by the Respondent’s agent and an error in filling in the correct particulars would have crept in at that point of time. The learned Single Judge would thereafter go on to hold that the said Bye-laws would not apply in the facts and circumstances of the case.

11. At the very outset, we would like to set out herein relevant paragraph from the Judgment of the Hon’ble Supreme Court in ***Jigya Yadav (supra)***, which is as follows:-

*“141. One of the primary functions of the Board is to grant certificates to its students. Effective maintenance and regulation of standard of education would include complete accountability of the Board in grant of such certificates and its duty does not get extinguished after publication of examination results and issue of certificates. Rather, it extends to taking care of post-publication concerns of students as and when they emerge, as students seek to*



*use their certificates for purposes of higher education and career opportunities. A narrow reading of the functions of the Board would leave glaring gaps in the field of school education and may jeopardise the welfare of students with legitimate concerns.”*

12. The above paragraph is self-explanatory, insofar as it sets out the primary functions of the CBSE and notes that it would not be correct to narrowly interpret the functions of the Board as such an approach may jeopardize the welfare of students with legitimate concerns.

13. We would like to set out certain other relevant paragraphs with respect to the utility and importance of CBSE certificates as recognized by the Hon’ble Supreme Court in ***Jigya Yadav (supra)***, which are as follows:-

*“144. The utility of certificates issued by the Board is not confined to educational purposes anymore. They serve a social purpose today and are often used to cross verify particulars like name and date of birth while applying for other government identity documents. They assume immense relevance while applying for various jobs, both public and private. Interestingly, CBSE itself has argued at length on the importance and authoritative value of their certificates. In such circumstances, an inaccuracy or denial of change could be fatal to a student's future prospects and all these concerns cannot be brushed aside in the name of administrative exigencies.*

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*150. No doubt, it is true that CBSE certificates are not strictly meant to be considered as identity documents, however, the same are being relied upon for corroborative purposes in all academic and career related transactions as foundational document. In fact, the CBSE itself has conceded to this fact that their certificates are relied for all official purposes, as noted above. The date of birth in matriculation certificate, in particular, is relied upon as primary evidence of date of birth of a citizen. Therefore, as regards the information contained in a CBSE certificate, the Board must afford opportunity to the students to modify it subject to complying with requisite formalities which are reasonable in nature. If all other State agencies could allow it for the preservance of consistency and accuracy, alongside being enablers in free exercise of rights by the citizens, there is no reason for the CBSE to not uphold that right of the students. More so, it would be in the interest of CBSE's*



*own credibility that their records are regarded as accurate and latest records of a student worthy of being relied upon for official purposes. Therefore, this approach would serve twin purposes — enabling free exercise of rights and preservice of accuracy.”*

14. The Hon’ble Supreme Court in the case of ***Jigya Yadav (supra)*** examined the following broad points as set out herein below:-

*“104. Having gone through the elaborate set of submissions and documents on record in the respective matter, the following broad points emerge for our consideration:*

***104.1.*** (1) *Whether the CBSE Examination Bye-laws have the force of law?*

***104.2.*** (2) *Whether Examination Bye-laws impose reasonable restrictions on the exercise of rights under Article 19 of the Constitution including fail the test of rationality for excessively restricting the scope of permissible corrections/changes?*

***104.3.*** (3) *Whether the Board is obliged to carry out corrections/changes in the certificates issued by it owing to correction/updation of public records/documents which have statutory presumption of genuineness?*

***104.4.*** (4) *Whether the Examination Bye-laws in force on the date of examination conducted by CBSE or the date of consideration of the application for recording correction/change would be relevant? And, whether the effect of correction or change, as the case may be, will have retrospective effect from the date of issue of the original certificate?*

***104.5.*** (5) *Whether writ of mandamus issued for effecting corrections in CBSE certificates can be in the teeth of explicit provisions in the Examination Bye-laws, without examining validity of the bye-laws?”*

15. Our analysis in the present case would necessarily have to be on the touchstone of point no. 3 set out at paragraph 104.3, which relates to an obligation on the part of the Board to carry out the corrections/changes in certificates issued by it owing to the correction or updation of public records/documents which have a statutory presumption of genuineness.

16. The said question was answered by the Hon’ble Supreme Court in ***Jigya Yadav (supra)*** as follows:-



### **“Point 3**

#### ***Binding value of public documents***

**167.** *Whether CBSE is obliged to effect changes in the certificates issued by it upon production of updated public documents (other than school records), is the next issue for consideration. According to the Board, it would not be permissible as it has no independent mechanism to verify the genuineness of the public documents. Even under the Bye-laws, there is no requirement for the Board to verify the genuineness of the documents. It is simply not the job of the Board.*

**168.** *The bye-laws provide for a two-tier mechanism for recording change of name or other details (as indicated above). One of them is prior permission or declaration by a court of law to be obtained. As regards public documents like birth certificate, Official Gazette, Aadhaar card, election card, etc. the same enjoy legal presumption of its correctness in terms of explicit provisions contained in Chapter V of the 1872 Act. The 1872 Act extends such presumption in terms of Section 76 read with Sections 79 and 80 of the 1872 Act and as in the case of Official Gazette under Section 81 of the same Act. Even other legislations concerning public documents attach equal importance to the authenticity of such documents including while making changes in their certificates to which we have alluded to in this judgment. Understood thus, there is no reason for the CBSE Board to not take notice of the public documents relied upon by the candidate and to record change on that basis in the certificate issued by it, for being consistent with the relied upon public documents. It matters not if the information furnished in the public documents is not entirely consistent with the school records of the incumbent. The CBSE while accepting those documents as foundational documents for effecting changes consistent therewith may insist for additional conditions and at the same time while retaining the original entry make note in the form of caption/annotation in the fresh certificate to be issued by it while calling upon the incumbent to surrender the original certificate issued by it to avoid any misuse thereof at a later point of time. It would be permissible for the CBSE to insist for a sworn affidavit to be given by the incumbent making necessary declaration and also to indemnify the CBSE. The fresh certificate to be issued by the CBSE may also contain disclaimer of the Board clearly mentioning that change has been effected at the behest of the incumbent in light of the public documents relied upon by him. In addition, the incumbent can be called upon to notify about the change in the Official Gazette and by giving public notice as precondition for recording the change by way of abundant precaution.*

**169.** *This Court in CIDCO v. Vasudha Gorakhnath Mandevlekar [Cidco v. Vasudha Gorakhnath Mandevlekar, (2009) 7 SCC 283 : (2009) 2 SCC (L&S) 319] , has observed that the records*





*maintained by statutory authorities have a presumption of correctness in their favour and they would prevail over any entry made in the school register. The Court observed thus : (SCC p. 288, para 18)*

*“18. 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 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 [Birad Mal Singhvi v. Anand Purohit, 1988 Supp SCC 604 : AIR 1988 SC 1796] .)”*

*The same position of law can be extended to the mandate laid down in Right to Education Act and Chapter 3 of the CBSE Bye-laws relating to admission of students. Bye-law 6.1 is instructive and relevant extract thereof reads thus:*

*“6. Admission : General Conditions:*

*6.1. (a) A student seeking admission to any class in a ‘School’ will be eligible for admission to that Class only if he:*

*xxx*

*xxx*

*xxx*

*(iv) produces:*

*...*

*(c) For the purposes of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1886 or on the basis of such other document, as may be prescribed, as stipulated in Section 14(1) of THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009.*

*(d) No child shall be denied admission in a school for lack of age proof, as stipulated in Section 14(2) of THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009.”*

*Therefore, even at elementary education level, there is a clear legislative intent to rely on statutory birth certificates for the purpose of date of birth. The authoritative value of these certificates is duly affirmed in this scheme.*

*170. There is no difficulty in correcting CBSE record to bring it in conformity with the school record. The difficulty arises when a statutory document is not consistent with the school record. As observed earlier, the version supported by statutory documents*



could be reckoned for the purpose of correction in CBSE certificate to make it consistent with public documents.

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*172. When a student applies to a court of law for prior permission and/or declaration and produces public document(s), the court would enter upon an inquiry wherein the legal presumption would operate in favour of the public document(s) and burden would shift on the party opposing the change to rebut the presumption or oppose the claim on any other ground. The question of genuineness of the document including its contents would be adjudicated in the same inquiry and the court of law would permit the desired change only upon verifying the official records and upon being satisfied of its genuineness. At the same time, the question of justiciability of the requested changes would be considered and only upon being satisfied with the need demonstrated by the student, the court would grant its permission. The said permission can then be placed before the Board along with copy of publication in the Official Gazette and requisite (prescribed) fee (if any). The Board would then have no locus to make further enquiry nor would be required to enter upon any further verification exercise.*

*173. We may now advert to the dictum of the Kerala High Court in Subin Mohammed [Subin Mohammed S. v. Union of India, 2015 SCC OnLine Ker 39731: (2016) 1 KLT 340]. The same has been relied upon in most of the impugned judgments for permitting corrections. In that decision, the Court discussed the inadequacies in the Bye-laws and issued directions to CBSE to correct date of birth with reference to statutory birth certificates provided the request is found to be genuine. The operative directions read thus: (SCC OnLine Ker para 42)*

*“42. Hence, to meet the ends of justice, it will be appropriate for this Court to dispose the writ petitions with the following directions:*

*(i) That CBSE shall correct the entries in the marksheet of the petitioners with reference to their corresponding birth certificates issued by the statutory authority, if the request is found to be genuine.*

*(ii) Genuineness of the birth certificate can be ascertained from the respective local/statutory authority/Head of the Institution or such other method, CBSE may deem it fit.*

*(iii) CBSE can demand in advance a consolidated fee, including all expenses for processing such applications.*



*(iv) Each of the petitioners shall pay Rs 5000 (Rupees five thousand only) as cost to CBSE within a period of one month.”*

*(emphasis supplied)*

*Thus, the task of determining genuineness of the request was left to the CBSE, which not only goes contrary to our discussion above but also fails to take into account the limitations of CBSE as a body. While considering requests for changes in certificates, CBSE cannot act as a court and it cannot effectively consider any request over and above those requests that merely require bringing the certificates in conformity with the school records or public documents, as the case may be.”*

17. Upon a careful reading of the above extracted paragraphs, it is evident that public documents, such as an official birth certificate issued by the competent authority, carry a statutory presumption of correctness under the law. In the present case, there exists no cogent reason for the Board to disregard the said document. Accordingly, the Board is expected to take due notice of such statutory public documents and effect consequential corrections in the records of the Appellant.

18. In fact, the Hon'ble Supreme Court states that these documents would be in the nature of foundational documents and to safeguard it, the CBSE is permitted to call upon the person seeking such a change to fulfill certain further formalities which could be in the nature of a sworn affidavit making the necessary declaration and also indemnifying the Board, surrendering any earlier documents pertaining to or making a reference to the information that is now sought to be corrected, etc.

19. The Hon'ble Supreme Court also states that a fresh certificate, which the CBSE issues, may also contain a disclaimer by the Board mentioning that the said change is based on the public documents submitted by the person seeking such a correction.



20. The Hon'ble Supreme Court in *Jigya Yadav (supra)* has concluded pithily as under: -

*“194. As regards request for “change” of particulars in the certificate issued by the CBSE, it presupposes 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.*

*194.1. 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).”*

21. We now advert to the rationale given by the learned Single Judge wherein it has been noted, and in our opinion correctly, as follows: -

*“44. It is also contended that the future prospects of the petitioner will also be affected if the entry of date of birth, in the mark sheet does not tally with that in the birth certificate issued by the statutory authority. In other documents like Aadhaar Card, Voter ID Card, PAN Card and Passport, the date of birth has*



*already been updated as 27<sup>th</sup> February, 1981. I am of the view that, failure to exercise jurisdiction may put the petitioner to serious hardship. Hence, to render justice, it is always open for the Court to pass appropriate orders, taking into account the facts and circumstances of each case. However, if disputed questions of fact arise, it will not be appropriate for this Court to entertain the matter. In the present case, there is delay on the part of the petitioner in approaching CBSE, which has been properly explained. It is also noted that other authorities have already updated the date of birth in their documents relying upon the birth certificate issued by the Greater Chennai Corporation. Therefore, failure to exercise jurisdiction will result in injustice to the petitioner. Such writ petition can therefore be entertained.”*

22. The fact of the matter is, various other public authorities including the Passport Authorities, have accepted the birth certificate of Respondent No. 1 herein. Based on this certificate, necessary changes have also been carried out in the Passport etc., being the documents required by Respondent No. 1 for the purpose of seeking employment in a foreign jurisdiction, *namely*, Australia.

23. It is, in fact, for this reason that the Respondent herein had initiated various steps required for making necessary corrections in all relevant documents and ensuring that they were all in tandem and error-free. Failure to ensure the documents being without errors would have jeopardized the entire future of the Appellant.

24. This Court fails to understand the vehemence with which the matter is being opposed. A citizen of this Country is entitled to a true and correct narration of all necessary and relevant particulars in the public documents that pertain to them. The CBSE is a record keeper of considerable importance, as has been elaborated by the Hon'ble Supreme Court in *Jigya Yadav (supra)* as well as by the learned Single Judge. The matriculation certificate of a person is considered an unassailable proof of date of birth.



25. This Court also notes that a Passport, among certain other documents, is also considered as a valid proof of date of birth. If the CBSE record is at variance with the Passport, it could lead to the creation of considerable doubt in the minds of any person who is considering Respondent No. 1 for employment, immigration or for any other purpose.

26. There is thus an imminent need to ensure that all official documents are in consonance with each other, as this not only provides certainty regarding specific details contained in public documents but also helps preserve the identity of a citizen, with the date of birth being an essential facet.

27. This Court reiterates that the Petitioner has not laid any challenge to the veracity of the Birth Certificate issued by the competent corporation i.e. Respondent No. 2 herein.

28. This Court is of the opinion that in light of the law laid down by the Hon'ble Supreme Court in *Jigyada Yadav (supra)* in the paragraphs as extracted hereinabove, and considering the facts of the present matter, there is no infirmity in the Judgment of the learned Single Judge and the present appeal stands rejected.

29. The present petition and pending application are disposed of in the above terms.

**SUBRAMONIUM PRASAD, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**

**JUNE 4, 2025/AK/sj**