

ITEM NO.16

COURT NO.8

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 15281/2024

(Arising out of impugned final judgment and order dated 22-09-2023 in CPM No. 43/2022 and 24-10-2018 in RSA No. 654/2012 passed by the High Court Of Himachal Pradesh At Shimla)

BALBIR SINGH**Petitioner(s)****VERSUS****STATE OF HIMACHAL PRADESH & ORS.****Respondent(s)**

(IA No.177510/2024-CONDONATION OF DELAY IN FILING and IA No.177512/2024-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Date : 20-08-2024 This petition was called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE RAJESH BINDAL**

**For Petitioner(s) Mr. Jatinder Kumar Kamboj, Adv.
Ms. Monika, Adv.
Mr. Anurag Ojha , AOR**

For Respondent(s)

**UPON hearing the counsel the Court made the following
O R D E R**

1. Delay condoned.
2. In the present petition the core dispute pertains to the change of date of birth.
3. Facts in brief are, the petitioner completed his matriculation in March 1981 and then completed BE Course from Thapar

Institute of Engineering and Technology in the year 1987. Thereafter, he joined Engineers India Limited as Trainee on 20.07.1987 and has been serving as an Engineer, since then. His date of birth was recorded as 10.04.1962 in service records.

4. It is claimed by petitioner that in the year 1999 he came to know that his date of birth recorded is erroneous and according to him it should be 23.04.1964 in place of 10.04.1962.

5. The petitioner filed civil suit No. 161 of 2007 on 13.11.2007 seeking change of date of birth in his matriculation certificate and also in his service record, which was dismissed on 22.11.2011. Being aggrieved, the petitioner filed Civil Appeal No. 67/I/XIII of 2011 before the District Judge, which was also dismissed on 05.09.2012. Second Appeal being RSA No. 654 of 2012 filed before the High Court of Himachal Pradesh was dismissed on 24.10.2018 maintaining the judgments of Trial Court and First Appellate Court. Being dissatisfied, the petitioner filed the Special Leave Petition (C) No. 654 of 2012 before this Court, which came to be dismissed *vide* order dated 01.03.2019.

The order reads as under:

“Heard learned senior counsel for the petitioner. We do not find any good ground warranting interference with the impugned order in exercise of our jurisdiction under Article 136 of the Constitution of India. The special leave petition is, accordingly, dismissed. Pending application(s), if any, shall also stand disposed of.”

6. The petitioner despite the above order/judgments continued with litigation and filed review application being Review Petition (C) No. 1661 of 2019 seeking review of the order dated 01.03.2019 passed by this Court and the same was also dismissed on 11.07.2019.
7. After losing upto this Court, still the petitioner filed an application under Right to Information Act. In reply, it was informed to him that in the records of Registrar Death and Birth, his date of birth had been corrected as 23.04.1964. After obtaining the corrected date of birth certificate dated 02.02.202, he filed Writ Petition being CWP No. 433 of 2022 before High Court seeking directions against authorities to

correct his date of birth in the school record as well as in his service record. The said Writ Petition was dismissed on 07.03.2022 observing as thus:

“We are surprised how the birth certificate has now been issued to the petitioner by the Secretary Gram Panchayat Majra when the petitioner failed to secure such relief not only from the Civil Court of the first instance, as well as first appeal and second appeal before this Court, but also from the Hon’ble Supreme Court. This would be a matter of inquiry, for which purpose copy of this order be forwarded to Deputy Commissioner, District Kangra. However, issuance of new date of birth certificate cannot be taken as the sufficient basis for ignoring the judgments and decrees passed by the Civil Court in Civil Suit as well as first appeal and second appeal, which have

been upheld by the Hon'ble Supreme Court as this writ petition would be barred by principle of res judicata. The argument of discrimination also would not be available as the same would be barred by principle of constructive res judicata, sought to be built on the basis of communication dated 8/15.02.1999. With regard to the judgments cited by learned counsel for the petitioner suffice it to say that the same cannot be examined on account of the writ petition being barred by principle of res judicata.

5. *In normal course, we would have considered imposing costs on the petitioner, but, since we are informed that the petitioner approached this Court through the legal aid counsel provided to him by the High Court Legal Services Authority, therefore, we refrain*

from imposing the costs. In view of the above, we find no merit in the present writ petition and the same is dismissed.”

8. A bare perusal of the order shows that the High Court, seeing the conduct of the petitioner, wanted to impose cost, however, refrained from doing so as the petitioner was represented by Legal Aid Counsel.
9. Being aggrieved by the said order, petitioner preferred Special Leave Petition (C) No. 6033 of 2022 challenging the same, which was dismissed on 11.04.2022 by this Court.
10. In terms of the observations made by the High Court in the order dated 07.03.2022, an inquiry was conducted, and it was observed that the birth certificate deserves to be cancelled for being invalid. Yet the petitioner did not stop and filed application being Review Petition CMP (M) No. 43 of 2022 seeking review of the order dated 24.10.2018 passed by the High Court in RSA No. 654 of 2012. The said Review filed after a delay of 3 years, 1 month and 29 days was dismissed

vide impugned order dated 22.09.2023.

11. The petitioner still did not put rest the litigation and filed the present Special Leave Petition challenging the aforesaid order dated 22.09.2023 passed by the High Court dismissing the review filed by the petitioner and also challenged the order passed in the second appeal against which Special Leave Petition which was dismissed by this Court on 01.03.2019 and even his review was also dismissed on 11.07.2019.
12. From the facts as noticed above, it is crystal clear that the petitioner had been flogging a dead horse. The claim otherwise also made by the petitioner was totally in contravention of the settled legal position. The date of birth was sought to be changed to 23.04.1964 from 10.4.1962 nearly 35 years later and after serving more than 10 years.
13. It is also pertinent to observe that the petitioner is a qualified engineer and not an illiterate person who could not appreciate/understand the merits of his case or the consequences of eight rounds of litigation. Such type of

litigation is choking the dockets of the Court as the claim of the petitioner had been examined by different forums and at least three times by this Court and no merit was found at any stage.

14. In view of the above discussions, we find no merit in this Special Leave Petition, hence, the same is dismissed. In the facts of the case, we are inclined to impose cost of ₹1,00,000/- (Rupees One Lakh) against the petitioner, which shall be deposited by him with the AIIMS Poor Patients Fund within a period of three months. A copy of the order be sent to the Director, AIIMS, New Delhi for information. Intimation of compliance be furnished by the petitioner to this Court. In the event of non-compliance, the amount would be recoverable from him as arrears of land revenue including the salary of the petitioner.

15. Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(ANU BHALLA)
COURT MASTER