

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE PRANAY VERMA**

CRIMINAL REVISION No. 4302 of 2022

BETWEEN:-

**MOHIN MANSOORI THROUGH GUARDIAN FIROZ
MANSOORI, OCCUPATION: NOTHING R/O: WARD NO. 8,
NEEM CHOUCK KYAMPUR SEETAMAU NAHARGAR,
DISTRICT MANDSAUR (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI SANTOSH KUMAR MEENA, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THROUGH POLICE STATION JEERAN
DISTRICT NEEMUCH (MADHYA PRADESH)**

.....RESPONDENT

***(BY SHRI GOURAV SINGH CHOUHAN, DEPUTY GOVERNMENT
ADVOCATE FOR THE RESPONDENT / STATE)***

Reserved on :- 25.04.2023

सत्यमेव जयते

Pronounced on :- 30.06.2023

.....

*This revision having been heard and reserved for orders coming on for
pronouncement this day, **HON'BLE JUSTICE PRANAY VERMA**
pronounced the following:-*

ORDER

This revision under Section 102 of Juvenile Justice (Care and Protection of Children) Act, 2015 has been preferred by the petitioner / accused against the order dated 11.10.2022 passed by the Trial Court whereby his application for being declared as a Juvenile has been rejected.

02. The petitioner is being prosecuted by the Police of Police Station Jiran, District Neemuch for offences punishable under Section 8/15 of the NDPS Act registered vide Crime No.136/2022 in the Court of Special Judge (NDPS Act), Neemuch.

03. As per the prosecution, on 22.04.2022 a pick-up vehicle bearing registration No.MP-40-GA-0859 was stopped by the Police party and total 2 quintal of contraband poppy straw was recovered from the same. The petitioner was the driver of the said vehicle when the same was stopped. On the basis of being caught illegally transporting the contraband, he has been implicated and arrested for the present offence.

04. During course of proceedings before the trial Court, the petitioner filed an application on 30.08.2022 for being declared as a Juvenile submitting that his date of birth is 20.09.2005 hence he was a minor on the date of incident but has falsely been shown as major by the prosecution hence he deserves to be declared a juvenile. The application was filed on the basis of the School records of the petitioner. On the application, the petitioner led his evidence as regards his date of birth. He examined Firozuddin, his father and Mukesh Suryavanshi, the Principal of Ideal English School, Bolia who had admitted the petitioner in the School and had recorded his date of birth on 16.07.2011 i.e. at the time of his admission as 20.09.2005. He produced the mark-sheet, scholar register and transfer certificate of the School as regards the petitioner.

05. The trial Court by order dated 28.09.2022 observed that there are discrepancies in the ink as regards the figures and words of date of birth in the documents produced by the petitioner and it appears that the same have been prepared by same ink for all the years and the date of birth in all of them has been written by a different ink and writing. Consequently, it observed that in

view of discrepancies in the documents produced by the petitioner, he cannot be declared as a juvenile. It hence directed for conducting of ossification test of the petitioner by the Medical Board for ascertaining his age. On receipt of the ossification report, by the impugned order, the trial Court relying upon the Medical Board Certificate showing the age of the petitioner to be more than 21 years has rejecting his application.

06. Learned counsel for the petitioner submits that the trial Court has erred in rejecting the application filed by the petitioner. The petitioner had produced the scholar register as well as the other documents and certificates of the School in which he had studied and had also examined the Principal of the School, who had given him admission initially and there was no reason to disregard the documents produced by him. They were the primary documents as regards the date of birth of the petitioner and ought to have been relied upon. The father of the petitioner had also supported the contention as regards date of birth of the petitioner. The ossification test has also not clearly stated the age of the petitioner on the date of incident. He was 16 years and 7 months of age at the time of the incident hence the application ought to have been allowed.

07. Per contra, learned counsel for the respondent/State has supported the impugned order and has submitted that no error has been committed by the trial Court in disregarding the documents produced by the petitioner and in directing for ossification test and holding him to be a major on that basis. The impugned order hence needs no interference.

08. I have heard the learned counsel for the parties and have perused the record.

09. Rule 12 of the Juvenile Justice (Care and Protection of Children)

Rules, 2007 provides for the procedure to be followed as regards determination of age of a juvenile. The same is as under:-

"12. Procedure to be followed in determination of Age.—(1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in Rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.

(2) The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining —

(a)(i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year. and,

while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of Section 7-A, Section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed of cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub-rule (3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law."

10. A perusal of the aforesaid rule reveals that while conducting the enquiry the Matriculation or Equivalent Certificate, if available and in absence whereof, the Date of Birth Certificate from the School first attended is to be firstly considered. In absence thereof the Birth Certificate given by a Corporation or Municipal Authority or Panchayat has to be considered. In absence of any of the aforesaid the medical opinion has to be sought from a duly constituted Medical Board which will declare the age of a juvenile or child. Thus, the primary document which is to be considered is Matriculation or Equivalent Certificate or Date of Birth Certificate from the School first attended. The same however cannot be said to mean that whatever Date of Birth Certificate from the School first attended is produced it has to be relied upon without anything further. A meaningful and purposeful reading of the clause would demonstrate that the Birth Certificate has to be a genuine one. The rule cannot be stretched to mean that whatever Date of Birth Certificate is produced it has to be given effect to no matter what and that its genuineness or authenticity is beyond the scope of examination in the enquiry. It would be open for the Court to satisfy itself as to whether the Date of Birth Certificate of the juvenile produced is genuine or not and if the same is not found to be so, then it has every power to reject the same and to proceed further as provided in the rule.

11. In the present case, the Court below has recorded a categorical finding that the documents produced by the petitioner of his School to show his date of birth are interpolated and manipulated. From a perusal of the documents, it is evident that though they are of different years but the hand writing in all of them is the same and the ink is also the same. The column as regards date of birth in letters has been filled-up by a different ink and is in a different hand writing. There is no corresponding entry of date of birth in words. A careful examination of all the documents unmistakably reveals that they have been prepared later on and the date of birth of petitioner has been recorded separately in all of them in one go. If the documents had been prepared on a yearly basis then the hand writing and ink in each of them individually would have been the same. That is however not the case in view of which the Court below has not committed any error in declining to act upon those documents and seeking a report from the Medical Board and on that basis holding the petitioner to be a major on the date of incident and in rejecting the application filed by him for being declared as a juvenile.

12. Thus in view of the aforesaid discussion, no error is found in the order passed by the trial Court. Thus affirming the impugned order, the revision being found to be devoid of merits is hereby dismissed.

(PRANAY VERMA)
JUDGE

Shilpa