

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA**

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CIVIL REVISION PETITION No.5154 of 2018

**Between:**

The State of Telangana, rep.by its Secretary, Education  
Department, Hyderabad and others.

.. Petitioners

AND

K.Srinivas Kumar

.. Respondents

Date of Judgment Pronounced: 28.10.2022

**SUBMITTED FOR APPROVAL:**

**HONOURABLE SRI JUSTICE A.SANTHOSH REDDY**

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|----|---|--------|
| 1. | Whether Reporters of Local newspapers may<br>be allowed to see the Judgments? | YES/NO |
| 2. | Whether the copies of judgment may be marked<br>to Law Reports/Journals?      | YES/NO |
| 3. | Whether Their Ladyship/Lordship wish to see the<br>fair copy of the Judgment? | YES/NO |

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*A.SANTHOSH REDDY, J*

**\* HONOURABLE SRI JUSTICE A.SANTHOSH REDDY**

**+ CIVIL REVISION PETITION No.5154 of 2018**

% 28.10.2022

# The State of Telangana, rep.by its Secretary, Education  
Department, Hyderabad and others

..PETITIONER

VS.

\$ K.Srinivas Kumar

..RESPONDENTS.

! Counsel For The Petitioner: Learned Government Pleader for  
Arbitration.

^ Counsel For Respondents: Sri P.Kamalakar.

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> Head Note :

? CITATIONS : -

1. AIR 1982 Andhra Pradesh 176
2. AIR 1991 SC 1546
3. AIR 2006 AP 137
4. (1999) 1 Supreme Court Cases 472

**HON'BLE SRI JUSTICE A.SANTHOSH REDDY**

**CIVIL REVISION PETITION No.5154 of 2018**

**ORDER:**

This Civil Revision Petition is directed under Article 227 of the Constitution of India to set aside the order, dated 20.04.2018, passed in E.A.No.11 of 2018 in E.P.No.1 of 2007 in O.S.No.3860 of 1991 by the learned IV Junior Civil Judge, City Civil Court, Hyderabad.

2. Heard the learned Government Pleader for Arbitration appearing for the petitioners and the learned counsel for the respondent. Perused the record.

3. Briefly stated, the facts leading to the present revision petition are as under:

The respondent herein filed suit in O.S.No.3860 of 1991 before the IV Junior Civil Judge, City Civil Court, Hyderabad to declare that his date of birth as 18.06.1970, instead of 31.05.1969 and also to declare the proceedings in Rc.No.300/HO/91, dated 18.03.1991 issued by the Director of School Education as

void *ab initio*. The said suit was dismissed. Aggrieved by the same, the respondent preferred appeal in A.S.No.465 of 1997 and the IV Additional Chief Judge, City Civil Court partly allowed the appeal. Aggrieved by the same, the petitioners herein preferred S.A.No.1079 of 2001 before this Court. The said appeal was dismissed by this Court vide judgment, dated 15.02.2002 confirming the judgment and decree of the lower appellate Court. After dismissal of the second appeal, the respondent made representation to the Government for correction of date of birth. But the same was rejected by the Government vide Memo No.17650/SER-IV/2/2003 Education (SER-IV) Department, dated 24.03.2003. Aggrieved by the same, the respondent filed C.C.No.1074 of 2003 against the petitioners for violation and disobedience of the order in S.A.No.1079 of 2001. However, the said contempt case was dismissed holding that there is no direction to the petitioners in the suit to give effect to declaration of date of birth and to correct the same in his service register and other educational records. As such, there is no violation of the directions

or orders passed by the trial Court and accordingly, dismissed the contempt case.

4. Subsequently, the respondent herein filed E.P.No.1 of 2007 against the petitioners for implementation of the decree and judgment in A.S.No.465 of 1997 and S.A.No.1079 of 2001, wherein the learned Junior Civil Judge, City Civil Court issued warrant of compliance to the petitioners herein. Wherein, the petitioners filed E.A.11 of 2018 for recalling of warrant issued on 31.10.2017. The said application was dismissed by the trial Court vide order, dated 20.04.2018. Challenging the said order, the present Civil Revision Petition is filed.

5. Learned Government Pleader vehemently contended that the suit was filed by the respondent only for relief of declaration and not for any further relief and as such, granting of consequential relief of correction of date of birth in the educational records and the service register is not maintainable. He further submits that this Court has closed the contempt case holding that there is no direction to the petitioners in the suit to give effect to declaration of date of birth and to correct the same in service register and other

educational records. Therefore, the continuation of the execution proceedings is an error committed by the trial Court and the trial Court has committed error in not recalling the warrant. The order of the trial Court is not sustainable. Therefore, he prays to allow the revision.

6. Learned counsel for the respondent supported the order of the trial Court and would contend that the petitioners cannot ignore the judgment and decree declaring the date of birth of the respondent, which attained finality by this Court in the second appeal. As such, he prays to dismiss the revision. He relied on the judgment of **K.Madhadeva Sastry v. Director, Post Graduate Centre, Anantapur**<sup>1</sup>.

7. I have gone through the entire evidence on record and also the judgment of this Court in S.A.No.1079 of 2001. Undisputedly, the suit was filed by the respondent/plaintiff in O.S.No.3860 of 1981 for declaration of his date of birth as 18.06.1970 instead of 31.05.1969 and the same was dismissed by the Court below. Aggrieved by the same, the respondent preferred A.S.No.465 of 1997 and the IV Additional Chief Judge, City Civil Court partly

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<sup>1</sup> AIR 1982 Andhra Pradesh 176

allowed the said appeal. Aggrieved by the same, the petitioners herein preferred S.A.No.1079 of 2001 before this Court. The said appeal was dismissed by this Court vide judgment, dated 15.02.2002 confirming the judgment and decree of the lower appellate Court. It is also not in dispute that the respondent filed E.P.No.1 of 2007 for implementation of the judgment and decree and warrant was issued directing the petitioners herein for implementation of the judgment and decree by correcting the date of birth of respondent as 18.06.1970. The petitioners resisted the same on the ground that there is no specific declaration or direction in the judgment and decree directing them to correct the date of birth in the school records. As such, they are not bound to implement the same.

8. In E.A.No.11 of 2018, in the accompanying affidavit, the petitioners by relying on the judgment of Apex Court in **State of Punjab v. S.C.Chadha** (Civil Appeal No.854 of 2004, dated 09.02.2004) averred that the date of birth of respondent cannot be altered/changed. The facts and circumstances of the present case are not similar to the said case.

9. The Apex Court in **Ishar Singh v. National Fertilizers**<sup>2</sup> held as under:-

“Law is equally settled that if for part of the reliefs the suit is maintainable in the forum where it has been laid, it is not open to the forum to shut out its doors to the suitor. In that view of the matter, so far as the relief of rectification of the record relating to date of birth is concerned, the Civil Court had jurisdiction and the High Court was not right in saying that the suit was not maintainable at all.

10. In **Nalam Bharathi v. Secretary, Board of Secondary**<sup>3</sup>, when learned counsel placed reliance on the judgments of **Ishar Singh**’s case (2 supra ), **Ramendra Kishore Biswas v. State of Tripura**<sup>4</sup> and **P. Madhadeva Sastry**’s case (1 supra), this Court in penultimate para of the judgment held as under:

“From the above decisions, it is clear that a civil Court has jurisdiction to pass a decree directing the defendant-authorities (respondents herein) to rectify the date of birth in the registers while declaring the correct date of birth of the appellant-plaintiff. Further the said decree is binding on the respondent-defendants and they are bound to comply with the decree. Under the above circumstances, I am of the opinion that the judgment and Decree passed by the lower appellate Court insofar as setting aside the judgment and Decree of the trial Court directing the defendants 1 and 2 for rectification of date of birth of the plaintiff is necessary records including the SSLC register is concerned, is liable to be set aside.”

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<sup>2</sup> AIR 1991 SC 1546

<sup>3</sup> AIR 2006 AP 137

<sup>4</sup> (1999) 1 Supreme Court Cases 472

11. Having regard to the above, so far as the relief of rectification of the record relating to date of birth is concerned, the Civil Court has jurisdiction and the said decree is binding on the petitioners. The contention of petitioners that the relief of declaration was only granted to the respondent declaring his correct date of birth, but there is no consequential relief directing the petitioners for correction of the educational records and his service register. In **K.Madhadeva Sastry's** case (1 supra), Division Bench of this Court, while answering the two questions that arose for consideration in the said case as to whether the respondent is entitled to ignore the decree on the ground that it does not direct the rectification of the service-record and that it is merely a declaratory decree; and ii) whether the present writ petition is barred and is not maintainable, held at para No.8 as under:

“ 8. So far as the first question is concerned, it must be remembered that the suit was instituted against the Director of Post-Graduate Centre, Anantapur, who is the petitioner's employer. The only relief sought for in the suit was a declaration that the correct date of birth of the petitioner is 29-12-1921 and not 1-6-1919. Reasonably and realistically speaking, there could have been no purpose behind the said suit, except to bind the respondent with the declaration and thereby obtain the benefit of extended service. The plaint allegations make the objective clear. So long as the decree stands, the respondent cannot say that the petitioner's date of birth is not 29-12-1921 but that it is 1-6-1919. Admittedly, this

is not a suit governed by [S. 34](#) of the Specific Relief Act, and hence the suit for a bare declaration, without a consequential relief was certainly maintainable in law. The stand taken by the Director that because there is no further direction to him to correct the service record and therefore he would still act upon the entries in the service-record as they stand, and retire the petitioner, is an unjustifiable one, which a public authority cannot be heard to say”

12. For the foregoing reasons, this Court is of the considered view that as per **K.Madhadeva Sastry**’s case (1 supra), the suit for a bare declaration, without any consequential relief was maintainable and though, there was no direction to the petitioners for correction of entries in the service register and other educational records, they are bound by the judgment and decree passed against them.

13. In view of the above facts and circumstances, I am of the firm view that the trial Court's order in E.A.No.11 of 2018 in E.P.No.1 of 2007 rejecting the application for recalling the warrant cannot be said to be suffering from any illegality or irregularity, nor it can be said that it has caused grave miscarriage of justice warranting interference under Article 227 of the Constitution.

14. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

A.SANTHOSH REDDY, J

28.10.2022

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