



2026:AHC:80210

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 14707 of 2025**

Vimal Singh

.....Petitioner(s)

Versus

Union Of India And 4 Others

.....Respondent(s)

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Counsel for Petitioner(s) : Chandra Prakash Awasthi  
Counsel for Respondent(s) : A.S.G.I., Anant Kumar Tiwari, C.S.C.,  
Gambhir Tripathi

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**AFR**

**Court No. - 38**

**HON'BLE SIDDHARTH NANDAN, J.**

1. Heard Shri Chandra Prakash Awasthi, learned counsel for the petitioner, Shri Anant Kumar Tiwari, learned counsel for the respondent nos. 1, 2 and 4 as well as learned Standing Counsel for the State-respondents no. 3 and 5.

2. The present writ petition has been filed with the following prayer:

*"(A). Issue a writ order or direction in the nature of mandamus commanding the respondent No.4 to admitting the petitioner in Class-VIth in PM Shri School Jawahar Navodaya Vidyalaya Duredi, Banda.*

*(B) Issue a writ order or direction in the nature of mandamus commanding the respondent No.4 to keep vacant one seat in class-Vi for the petitioner in the said institution.*

*(C). Issue any suitable writ order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."*

3. Learned counsel for the petitioner has submitted that the birth certificate issued by the Gram Panchayat, Bantharee, Banda specifically records the date of birth of the petitioner to be 01.07.2013. He has also relied on the prospectus for admission to Class-VI in PM Shri School Jawahar Navodaya Vidyalaya, wherein under the eligibility clause, more particularly in Clause 4.2, it has been mentioned that a candidate seeking admission must not be born before 01.05.2013 or after 30.07.2015. In

view of the aforesaid, he submits that the date of birth of the petitioner is 01.07.2013 and the birth certificate issued by the Government has a presumption of its validity and unless the same is cancelled or the presumption is dislodged, the date of birth of the petitioner could not have been doubted.

4. Per contra, Shri Anant Kumar Tiwari, Advocate, relying upon Para-29 of the counter affidavit, has submitted that the Chief Medical Officer, Banda, through his letter dated 16.04.2025 though indicated that the age could be in variance of six months to one year, in the medical verification of the age of a candidate, he has given a report that the petitioner's age is about 16 year (wrongly transcribed as 15 year in Para-29). In view of the aforesaid, the petitioner could not have been given the admission.

5. On a pointed query to the learned counsel for the respondent, as to whether the birth certificate issued by the Gram Panchayat, Bantharee, as annexed with the affidavit filed along with aforesaid writ petition (Annexure-2), has been controverted, he submits on the basis of the counter affidavit that the same has not been contradicted.

6. The issue which arises for consideration before this Court is that once a document which has been issued under a statutory provision and the same being admitted, whether under the scheme which is beneficial in nature, is it open to the authorities to doubt the age of a student and seek for a medical report from the Chief Medical Officer.

7. It is trite law that the ossification test, based on which the CMO submits his report, cannot be said to be accurate and it has been considered to be having an accuracy of  $\pm 2$  years (*Ref: Jaya Mala Vs. Home Secretary, Government of Jammu & Kashmir and Others; reported in (1982) 2 SCC 538 and Vishnu Alias Undrya Vs. State of Maharashtra; reported in (2006) 1 SCC 283*).

8. In the case of *Vishnu Alias Undrya (supra)*, while the date of birth was being determined on the basis of the available evidences, the Apex Court had opined that the date of birth registered in the municipal corporation coupled with the statement of the parents is a determining factor. The correct date of birth, where unimpeachable document, is corroborated by

even an oral statement, the ossification test based opinion of medical officer, which is really of an advisory character cannot take precedence over the date of birth recorded in the municipal corporation. Even as per the doctor's opinion in the ossification test for determination of age, the age varies.

9. The Apex Court in the case of *Jarnail Singh Vs. State of Haryana, reported in (2013) 7 SCC 263*, also examined the issued and held that in Juvenile Justice (Care and Protection of Children) Act, 2015, the matriculation (or equivalent) certificate of a child concerned is a highest rated option, in the scheme of Rule, 12(3); and in case said certificate is available, no other evidence can be relied upon, and only in absence of such a certificate other records of date of birth can be looked into i.e. the date of birth entered into the school first attended by the child; and thereafter in absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a Corporation or a municipal authority or a Panchayat. Yet again, if such a certificate is available then no other material whatsoever, is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child; and only in absence of any of the aforesaid document, the determination of age of a child concerned, can be on the basis of "medical opinion".

10. It is noteworthy that the birth certificate is issued under Section 12/17 of the Registration of Births and Deaths, Act, 1969 read with Rule 8(3) of the Uttar Pradesh Registration of Births and Deaths Rules, 2002; and as such it has the presumption of its validity under law; and at no point of time the said presumption has been dislodged by the respondent and the certificate admittedly has not been cancelled.

11. In view of the aforesaid fact, this Court is of the opinion that unless and until, a document which has been issued under a statutory provision, is either cancelled or an element of forgery is proved, it shall have a binding effect on the authorities; and it is not within the domain of the authorities concerned, to doubt the certificate issued under a statutory provision, on its own whims and fancies.

12. The said observation is also in view of the fact that the ossification test which the CMO conducts, as per the certificate itself, records that the opinion of age is based on general appearance and the respondents also admits in their counter affidavit that, there could be a variance of six month to one year in the medical verification of the age of a candidate, i.e. in Paragraph No. 29 of the counter affidavit dated 21.11.2025.

13. In view of the aforesaid, the denial by the respondent no.4 to admit the petitioner in Class-VI in PM Shri School Javahar Navodaya Vidyalaya, Duredi, Banda is not in consonance with the mandate of Right to Education Act, 2009; and accordingly the respondent no.4 is directed to admit the student (petitioner herein) in Class-VI, for the academic session 2026-27, as it is the case of the petitioner that he is not studying anywhere, without any further delay.

14. This Court finds that a number of writ petitions are being filed, on account of the rejection of the candidature solely based on a medical opinion, discarding the documents which have been issued by the competent authorities under a statutory provision; therefore, I deem it appropriate that a direction may be issued to Respondent No.2- to circulate amongst all the schools which are governed by them i.e. "Navodaya Vidyalaya", to only seek for a medical opinion, in case the following documents are not available:

- (i) Matriculation certificate (or equivalent) issued by the competent authorities/Board.
- (ii) Documents evidencing date of birth entered into the school first attended by the child, duly attested by the Principal, of the said school.
- (iii) Birth certificate issued by the Corporation or Municipal Authority or a Panchayat.

15. However, the aforesaid documents are subject to their verification, if any doubt arises regarding their genuineness, for which the concerned School authorities, may send the said documents within two weeks of application, to their issuing authorities/Board, who shall be required to respond within a maximum period of one month, from the date of receipt of such request, from the School, where the child had applied for

admission.

16. With the aforesaid observation and direction, the writ petition stands *disposed of*.

17. Registrar (Compliance) is directed to send a copy of this order to Respondent No.2, for necessary compliance.

**(Siddharth Nandan,J.)**

**April 10, 2026**

Sumit K.