

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP (C) 853/2026
CM (2211/2026)**

Mohammad Fazli Illahi through his father

... Petitioner

Through: Mr. Tasaduk Hussain Reshi, Advocate
Vs.

Union of India and another

... Respondents

Through: Ms. Yasmeen Jan, Adv. Vice Mr. T. M. Shamsi, DSGI

CORAM:

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
02.09.2026

1. The petitioner, who is a minor, is represented by his father before this Court in the present writ petition. The short grievance projected in the petition is that the petitioner is in dire need of a fresh passport reflecting his correct date of birth, but the respondents are not issuing the same without assigning any reason.
2. It is submitted that the present petition involves urgency, as the petitioner has qualified the NEET 2025 and has to pursue MBBS studies abroad, for which a valid passport reflecting his correct date of birth is an indispensable requirement.

3. Briefly stated, the case of the petitioner is that, at the initial stage of his schooling, due to an inadvertent error, his date of birth was recorded as 12.07.2004 instead of 25.05.2008. Consequently, when a passport bearing No. K5584737 was issued to the petitioner on 07.08.2012, it also reflected the same incorrect date of birth. Later, in 2018, upon discovering the said error, the petitioner approached the Zonal Education Officer, Kakapora, Pulwama, seeking rectification thereof. After due verification and completion of the requisite formalities, the petitioner's correct date of birth, i.e. 25.05.2008, was duly recorded in the official school records.
4. It is stated that the petitioner has since continued his education and successfully completed his Secondary and Higher Secondary Examinations during 2023-2025, during which period all his academic records reflect his correct date of birth as 25.05.2008. The same date of birth is also reflected in the petitioner's Aadhaar Card. The competent authority under the Registration of Births and Deaths Act has also issued a Birth Certificate dated 21.01.2026 in favour of the petitioner, certifying his date of birth as 25.05.2008.
5. It is submitted that the petitioner applied for a fresh passport and, despite submitting all valid and legally acceptable documents, the respondents, while issuing Passport No. C5538808 dated

29.11.2024, erroneously and mechanically retained the incorrect date of birth, i.e. 12.07.2004, without application of mind. Against this, the petitioner submitted detailed representations dated 18.10.2024 and 05.01.2026, requesting correction/re-issuance of the passport in accordance with his matriculation certificate and Birth Certificate. However, the respondents failed to act upon the same and did not assign any reasons therefor.

6. It is submitted that the petitioner has been subjected to arbitrary and inconsistent directions by the respondents, who at times advised him to apply for a fresh passport and, at other times, asked him to apply for re-issuance thereof, thereby exposing him to undue harassment and administrative uncertainty. The petitioner also submitted an online application on 27.01.2026.
7. The respondents have filed their objections wherein it is pleaded that the writ petition has been filed without any lawful justification. It is submitted that the petitioner obtained a passport in 2011 by submitting valid proof of date of birth viz. a copy of the Birth Certificate issued by the Registrar of Births and Deaths, Pulwama. It is submitted that the passport was issued to the petitioner recording the same date of birth as was recorded in the said certificate. It is further submitted that after the petitioner applied for re-issuance of the passport in 2024, he was issued a fresh passport bearing No. C5538808 dated 29.11.2024 valid up

to 28.11.2034, wherein his date of birth was again reflected as 12.07.2004 as per his earlier Birth Certificate. It is submitted that neither the petitioner nor his father approached the respondents during the currency of the earlier passport for rectification of his date of birth therein. It is pleaded that seeking a change in the date of birth at this stage appears unjustified and *mala fide*. It is further submitted that the petitioner has sought a change in his date of birth in the passport after having retained the earlier passport for more than ten years.

8. The petitioner has controverted the objections of the respondents in his rejoinder, wherein it is submitted that he submitted detailed representations to the Regional Passport Officer on 18.10.2024 and 05.01.2026, enclosing the corrected documents. It is further submitted that a fresh online application was submitted by the petitioner on 27.01.2026. It is submitted that the inaction on the part of the respondents compelled the petitioner to invoke the extraordinary writ jurisdiction of this Court through the present writ petition.
9. Controverting the argument of the respondents that no correction was sought by the petitioner for over a decade, it is submitted by the petitioner that when the first passport was issued, the petitioner was only four years of age and, therefore, a minor could not have discovered or rectified a clerical error made by the

school authorities at the time of admission. It is submitted that the error was discovered only in 2018, whereupon the ZEO, Kakapora, was immediately approached and the school records were corrected after completion of the requisite formalities.

10. It is contended that the respondents have relied upon Birth Certificate bearing No. 00020 dated 06.04.2011, which reliance is not legally sustainable as the said certificate itself bears the handwritten endorsement “as per school record”, which demonstrates that it was mechanically prepared on the basis of the same erroneous school admission record that was subsequently corrected by the Zonal Education Officer in 2018. The said certificate has expressly been cancelled by the Chief Medical Officer, Pulwama, vide order dated 21.07.2026. After examining the corrected records of the Jammu and Kashmir Board of School Education and the fresh Birth Certificate issued by the Block Development Officer, Kakapora, the Chief Medical Officer has officially recognized the petitioner’s correct date of birth as 25.05.2008 and cancelled the Birth Certificate issued in the year 2011.
11. It is further submitted that the entire defence of the respondents rests upon a document which has since been cancelled and has no subsisting legal effect and thus the respondents cannot perpetuate an erroneous date of birth. It is submitted that the petitioner has

produced an unbroken chain of consistent documentary evidence, all recording his date of birth as 25.05.2008, which include his 10th, 11th and 12th standard certificates issued by the Jammu and Kashmir Board of School Education. It is reiterated that the Birth Certificate issued by the Block Development Officer, Kakapora, under the Registration of Births and Deaths Act, 1969, records his date of birth as 25.05.2008 and consequently the Chief Medical Officer, Pulwama, has cancelled the old Birth Certificate of 2011 and officially recognized 25.05.2008 as the petitioner's correct date of birth.

12. It is pleaded that despite being in possession of the petitioner's representations and the corrected documentary records, the Regional Passport Officer while issuing Passport No. C5538808 dated 29.11.2024 has retained the incorrect date of birth of the petitioner as 12.07.2004. This was not merely a case of inaction but amounted to the active perpetuation of a known clerical error without due application of mind. Such conduct is arbitrary and unreasonable, violative of Article 14 of the Constitution of India, and adversely affects the petitioner's right to travel abroad for the purpose of pursuing his education, protected under Article 21 of the Constitution of India.
13. It is further pleaded that subsequent to the filing of the present petition, the petitioner has secured admission to the International

Higher School of Medicine, Bishkek, Kyrgyz Republic, for the Doctor of Medicine (MD) programme for the academic session 2026–27. The said University has recorded the petitioner's date of birth as 25.05.2008, in conformity with his academic and other valid documentary records. Thus, if the petitioner is not issued a fresh passport recording his correct date of birth, the petitioner faces the imminent risk of losing his medical seat and, consequently, an entire academic year.

14. Heard learned counsel for the parties and perused the record.
15. The controversy raised in the petition primarily relates to the date of birth of the petitioner recorded in his passports. The first passport issued to the petitioner in the year 2012 by the respondents recorded his date of birth as 12.7.2004 based on his birth certificate. In 2018, the petitioner became conscious of the error that had inadvertently crept in his school records, on the base of which his date of birth was also recorded in his birth certificate, which in turn had become the base for recording the incorrect date of birth in his passport, and sought the correction of his date of birth. The correction was carried out after following the due procedure. Now, when the petitioner again applied for fresh passport, the respondents instead of recording his correct date of birth in the new passport, issued the same without changing his date of birth. Despite representations by the

petitioner, the respondents have not corrected the date of birth of the petitioner.

16. The respondents cannot deny the correction in the date of birth of the petitioner in view of clause 4 (iii) of the Circular No. VI/401/2/5/2001 dated 26.11.2015 for the reason that the said circular itself carves out an exception for the minors in whose case corrections have been allowed beyond the timeframe of four years.
17. The Clause 4 (iii) of the Circular No. VI/401/2/5/2001 dated 26.11.2015 provides for such cases where the applicant comes to PIA for change/correction with regard to date of birth in the passport after a period of five years from the date of issue of passport with alleged wrong date of birth, no such request shall be entertained/accepted by the PIA and be rejected out rightly. The Clause 4(iii) of the Memorandum being Circular No. VI/401/2/5/2001 dated 26.11.2015 is reproduced as under:

“(iii) The cases where the applicant comes to PIA for change/correction with regard to date of birth in the Passport after a period of five years from the date of issue of passport with alleged wrong date of birth, no such request shall be entertained/accepted by the PIA and be rejected out rightly.

However, an exemption in this regard may be given to an applicant who was minor at the time when passport with alleged wrong date of birth was issued to him. As and when such an applicant after attaining the age of majority applies for the passport with the request to change the date of birth in the passport issued to when he was minor, the PIA irrespective of the duration of the issuance of passport may accept his case for consideration and if is satisfied with the claim and document(s) submitted by the applicant, may accept his request for change of date of birth in the passport without imposition of any penalty.”

18. In the present case, Passport Officer has failed to consider the case of the petitioner by rejecting merely on the ground that the birth certificate presented by the petitioner at the time of seeking his first passport was recording his date of birth as 12.7.2004, ignoring the fact that at the time when the petitioner applied for the second passport, he had already got corrected his date of birth in his school records and his earlier birth certificate had been cancelled by the competent authority and his actual date of birth had been certified duly by the competent authority. The Passport Officer was required to consider their own circular in which special concession has been made in case of minors. Further the Passport Officer failed to appreciate the fact that the petitioner was minor on the date when first passport was issued to him. In view of aforementioned Circulars, exemption should be given to the petitioner who was minor at the time when passport with incorrect date of birth was issued to him. As and when the petitioner applied for a fresh passport, the PIA irrespective of the duration of the issuance of earlier passport was required to accept his case for consideration and if satisfied with the claim and document (s) submitted by the petitioner should have accepted his request for change of date in the passport.

19. This Court finds a grave injustice has been caused to the petitioner in so far as the Passport Officer has declined to consider the actual date of birth of the petitioner which was duly certified by the competent authority and was also reflected in the school records of the petitioner.
20. Declining a passport reflecting the correct date of birth of the petitioner, would take away the inalienable right of free movement of the petitioner particularly at a time when he has got admitted in a foreign country to undergo a medical degree. Needless to mention that the Supreme Court has laid much importance on the right to movement in its judgment “Mrs. Maneka Gandhi Vs. Union of India and Anr” reported in (1978) 1 SCC 248.
21. Considering the totality of aforesaid facts and circumstances and in view of the guidelines of the Ministry of External Affairs contained in Circular No. VI/401/2/5/2001 dated 26.11.2015, the inaction of the respondents is found to be arbitrary and unreasonable, violative of the principles of natural justice, and contrary to the mandate of the Passports Act, 1967, and the rules framed thereunder, which recognize educational certificates and Birth Certificates as valid proof of date of birth.

22. For the reasons stated above, this writ petition is allowed by issuing a writ of mandamus commanding upon the respondents, particularly respondent no. 2 to consider the application of the petitioner for issuance of fresh passport reflecting his correct date of birth on the basis of his Matriculation Certificate issued by the competent authority, within a period of two weeks from the date of receipt of a copy of this order.

23. Disposed of.

(SANJAY PARIHAR)
JUDGE

Srinagar
02.09.2026
N Bhat

Whether the order is speaking:	Yes
Whether the order is reportable:	Yes