

(2014) 02 AHC CK 0087
In the Allahabad High Court
Case No : Special Appeal No. 160 of 2014

Anand Singh

APPELLANT

Vs

U.P. Board of Secondary Education, Allahabad and Others

RESPONDENT

Date of Decision : 11-02-2014

Acts Referred:

Citation : (2014) 3 ADJ 443 : (2015) 1 ALJ 61 : (2014) 103 ALR 607 : (2014) 4 AWC 3355 : (2014) 2 UPLBEC 1330

Hon'ble Judges : Dhananjaya Yashwant Chandrachud, C.J.; Dilip Gupta, J

Bench : Division Bench

Advocate : Pramod Kumar Singh and Saurabh Srivastava, Advocate for the Appellant

Judgement

Dr. Dhananjaya Yeshwant Chandrachud, C.J. and Dilip Gupta, J.—This special appeal arises from a judgment of the learned Single Judge dated 8th January, 2014. The appellant, in the writ proceedings sought to question the legality of an order dated 11th October, 2013 passed by the first respondent rejecting his application for correction of the name of his mother in the certificate issued by the U.P. Board of High School and Intermediate Education (hereinafter referred to as the Board) on the ground that it was submitted beyond the prescribed period of three years. The appellant passed the High School examination conducted by the Board in 2006 from the Saraswati Vidya Mandir Uchchar Madhyamik Vidyalaya, Deviganj, District Fatehpur. Prior thereto, the appellant completed his Junior High School studies from Purva Madhyamik Vidyalaya, Kirtikheda, District Fatehpur. According to the appellant, the name of his mother was recorded as Munni Devi in the record of the aforesaid Institution. It is stated that when the appellant took admission for High School studies, the name of his mother was recorded as Munni Devi in the scholar register and also in the Transfer Certificate issued by the Saraswati Vidya Mandir Uchchar Madhyamik Vidyalaya. However, it is his case that due to a bona fide mistake committed by him, the name of his mother was mentioned as Lata Devi when he obtained registration in the High School Examination 2006. The mistake continued at the

time of registration in the Intermediate Examination-2008. On 26th October, 2010, the father of the appellant submitted an application to the Secretary of the Board through the Principal of the Saraswati Vidya Mandir Uchchatar Madhyamik Vidyalaya for correcting the name of the mother of the appellant in the High School and Intermediate certificates from Lata Devi to Munni Devi. Copy of this application indicates that an endorsement was made by the Principal of the Institution on 29th October, 2010 that the correct name of the mother of the appellant is Munni Devi and so the necessary corrections may be made in the certificates. On 3rd September, 2012, an application was again submitted before the Secretary of the Board for correcting the name of the mother of the appellant. Since the application was not disposed of, the appellant filed a writ petition, which resulted in an order dated 1st August 2013, directing the authority concerned to take an expeditious decision in the matter. Eventually, the application was rejected by the order dated 11th October, 2013 on the ground that it was filed beyond the prescribed period of three years prescribed in the Regulations.

2. The Regulations, which have been framed in pursuance of the U.P. Intermediate Education Act, 1921, contain Regulation 7 for correction of the details bearing in the High School and Intermediate certificates. The said Regulation 7 as amended on 20th September, 2013 provides as follows:

3. The English translation of the aforesaid Regulation 7 would read as follows:

The Secretary shall, on behalf of the Board, issue a certificate in the prescribed form to successful candidates of having passed the examination and to make any corrections subsequently in the entries thereof provided that such incorrect entries had been made in the certificate due to any inadvertent clerical error or omission or due to any clerical error which had crept inadvertently at the level of the Board or at the level of the institution last attended. This correction may be made by the Secretary only when the candidate has submitted an application for rectification of the mistake to the Principal/Manager concerned within three years from the date of issuance of the certificate by the Board and one copy has also been sent to the Secretary by registered post:

Provided that any spelling mistake in the marksheet or the certificate issued to the candidate in regard to the name of the candidate or the name of his father or mother shall be corrected after due verification by the Regional Secretary of the concerned Regional Office at the earliest upon submission of an application by the candidate.

4. The substantive part of Regulation 7 provides for the correction of such entries in the certificate which have arisen because of any inadvertent clerical mistake or omission in the records of the Board or the Institution last attended by the candidate. It also provides that for this purpose, the candidate has to submit an application within three years of the date of issue of the certificate. However, under the proviso, any spelling mistake occurring in the name of the applicant or

in the name of the applicant's father/mother in the certificate can be corrected when an application is filed for this purpose. The nature of the error which is contemplated in the substantive part of Regulation 7 is not the same as contemplated in its proviso nor is any time limit set out in the proviso.

5. It would be useful to examine the particulars of the candidate that are contained in a certificate issued by the Board. They include the year of the examination, the name of the candidate, the names of the parents, date of birth, subjects opted, division obtained, name of the School/Centre, certificate number, appearance as a regular/private candidate and the date of issue of the certificate. Of these, the date of birth, the subjects opted, the year of examination and the division obtained by the candidate are particulars which have an important bearing when admission to higher classes or employment is sought by the candidate. While making any correction in the entries relating to these matters, the requirement of moving the application within three years has to be adhered to as any correction in regard to these entries would have an impact on the rights of other candidates when they seek admission to higher classes or employment. However, the other particulars contained in the certificate, like the name of the candidate or the names of the parents of the candidate are not that relevant and any correction made in regard to these particulars would have no impact on the admission or employment of other candidates. When so considered, we feel persuaded to hold that the time limit of three years prescribed in the substantive part of Regulation 7 for submission of an application for making correction in the certificate issued by the Board in regard to the name of the candidate or the names of the parents of the candidate should not be insisted upon, particularly when the Board itself has considered it appropriate to have no time limit under the proviso for making correction in regard to any spelling mistake in the name of the candidate or his parents. The applicant must, however, explain to the Board the reasons on the basis of which the application could not be submitted earlier and if it is found that the claim is bona fide and is otherwise justified, there is no reason to reject the application, as in the present case, merely on the ground of delay. Undoubtedly, the Board has to examine whether any genuine ground has been made out for correcting the name and it would be open to the Board to consider all the relevant materials pertaining to the request for correction of the name.

6. In the circumstances, we are of the view that the impugned order of the first respondent, rejecting the application submitted by the appellant for correction of the name of his mother in the High School and Intermediate examinations only on the ground of delay, is unsustainable. We, accordingly, direct the first respondent to re-consider the application having due regard to all the documentary evidence which may be produced by the appellant. The first respondent would also be at liberty to summon all the relevant records from the concerned Institution for the purpose of deciding the application of the appellant. We clarify that the interpretation which we have placed in the aforesaid terms governs only the mistakes in the certificate in the name of the candidate or in

the names of his parents. The first respondent shall now pass a fresh order in accordance with law within a period of four months from the date of receipt of a certified copy of this order. In order to facilitate this exercise, the impugned order dated 11th October, 2013 is set aside. The order of the learned Single Judge shall, in consequence, be set aside and be substituted by the aforesaid directions. The appeal is, accordingly, allowed to the extent indicated above. There shall be no order as to costs.