

(2010) 09 KL CK 0333

In the High Court Of Kerala

Case No : Writ Petition (C) No. 34909 of 2009 (G)

Anoop K.

APPELLANT

Vs

State of Kerala and The District Educational Officer

RESPONDENT

Date of Decision : 22-09-2010

Acts Referred:

Citation : (2010) 09 KL CK 0333

Hon'ble Judges : K.T. Sankaran, J

Bench : Single Bench

Advocate : C.S. Manu, for the Appellant; No Appearance, for the Respondent

Judgement

K.T. Sankaran, J.—The petitioner, who was a student in Sacred Heart School, Thevara, passed S.S.L.C. in the year 1997. It is stated that the petitioner is presently working as a Civilian in Indian Navy. At the time of admission in the school, the caste of the petitioner was shown as "Viswakarma" and the same was carried out in the School Leaving Certificate also. According to the petitioner, his father belongs to Nair community and his mother belongs to Ezhava community. Ext.P2 birth certificate issued by the Corporation of Cochin is produced to show that the father of the petitioner belongs to Nair community. The case of the petitioner is that, according to the custom, the caste of the petitioner is Nair. Only because of a mistake, his caste name was shown as "Viswakarma" in the school records and in the S.S.L.C. Book.

2. The petitioner submitted Ext.P3 application dated 7.10.2009 to the District Educational Officer through the Headmaster of the School, to issue an order for correction of his caste name as "Hindu Nair" in the Admission Register and in all connected school records including SSLC Book. Ext.P3 application was returned by the District Educational Officer stating that he could exercise the jurisdiction only in respect of the mistakes committed before completion of SSLC by the candidate.

3. Learned Counsel for the petitioner relied on the Division Bench decision of this

Court in State of Kerala v. Ritha Thomas 2010 (2) KLT 637, wherein it was held as follows:

4. The contention of the learned Government Pleader that any change in the name of the pupil can be effected by the District Educational Officer only so long as the pupil continues in the rolls of any school and not otherwise, does not appeal to us. As per the first limb of Sub-rule.(1) of Rule 3, the change to be effected in the name as also the religion and the date of birth in the admission register cannot be altered except with the sanction of the authority specified by the Government in that behalf. The next sentence in the rule only provides as to who should submit the application for effecting such changes. If the pupil is still continuing on the rolls of any school, then by the parent and if he is not on the rolls of any school, then by the pupil himself. Therefore, it is only the manner of submitting the application that is contemplated by the second sentence as read above in the aforesaid rule. As regards the authorities specified is concerned, the Government has specified two authorities - one for effecting changes in the name and the other for effecting changes in the date of birth. There is no doubt in our mind that for effecting change in the name of a pupil, the specified authority is the District Educational Officer and none else. Sub-rule (4) of Rule 3 only mandates that in case such changes are effected after the issue of a Public Examination Certificate, the candidate concerned shall notify the change in name in the Gazette and such notification shall be attached to his certificate. In other words, it is after effecting the change in the name the same has to be published in the Gazette for completion.

5. The object of Sub-rule (4) seems to be that so long as the pupil did not appear for public examination except to make any changes in the admission register, there may not require any changes to be effected in any other certificates, whereas once the student appears in the public examination since SSLC certificate is issued thereafter, the change that is effected in the admission register has also to be carried out in the SSLC book and it being a public document accepted for all official purposes it should also be published in the Gazette for information of the public.

4. In view of the authoritative pronouncement by the Division Bench, it is clear that the District Educational Officer is the authority to entertain the application. Therefore, the endorsement made by the District Educational Officer on Ext.P3 application, which is marked as Ext.P3(a), is quashed. The District Educational Officer shall consider Ext.P3 application afresh in the light of the decision of the Division Bench in State of Kerala v. Ritha Thomas 2010 (2) KLT 637 and dispose of the application in accordance with law, within a period of two months from the date of receipt of a copy of the judgment. Petitioner shall produce a copy of the Writ Petition and the certified copy of the judgment before the District Educational Officer.

The Writ Petition is disposed of as above.