

(2020) 09 SHI CK 0343

In the High Court Of Himachal Pradesh

Case No : Execution Petition No. 72, 73 Of 2019

Avinash Vaishnav And Others

APPELLANT

Vs

Central Board Of Secondary Education (C.B.S.E) And Another

RESPONDENT

Date of Decision : 22-09-2020

Acts Referred:

Citation : (2020) 09 SHI CK 0343

Hon'ble Judges : Tarlok Singh Chauhan, J; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Anil Bansal, Komal Chaudhary

Final Decision : Disposed Of

Judgement

Tarlok Singh Chauhan, J

1. Since common questions of law and fact are involved in both these execution petitions, therefore, they are taken up together for disposal.

2. Both the petitioners approached this Court by filing CWP Nos. 1027 and 1031 of 2019 seeking therein a direction to the CBSE for correction of the name of their mother in the Matriculation and 10+2 certificates. On 14.05.2019 and 17.05.2019, these writ petitions were disposed of with the following directions:

"CWP No.1027 of 2019.

The instant writ petition is accordingly disposed of with a direction to the CBSE Authorities at Panchkula to consider the request received from the Saraswati Vidya Mandir vide letter dated 13th March, 2019 and, after verification of relevant records, carry out necessary corrections regarding the name of the petitioner's mother in the Matriculation and 10+2 Certificates. Needful shall be done within a period of two months."

CWP No.1031 of 2019.

"The instant writ petition is accordingly disposed of with a direction to the CBSE

Authorities at Panchkula to consider the request received from the Saraswati Vidya Mandir vide letter dated 13th March, 2019 and, after verification of relevant records, carry out necessary corrections regarding the name of the petitioner's mother in the Matriculation Certificate. Needful shall be done within a period of two months."

3. Despite clear-cut directions of this Court, the respondent-CBSE failed to implement the orders of the Court, constraining the petitioner(s) to file the instant execution petitions.

4. In order to appreciate the controversy, a brief background of the cases needs to be set out.

5. In the documents possessed by the petitioner's mother, more particularly, the Matriculation Certificate, Ration Card, Aadhar Card and other official documents, her name is recorded as 'Neeta Devi', whereas, in the Matriculation and 10+2 Certificates of the petitioner(s) issued by the Central Board of Secondary Education, her name was recorded as 'Anita'. This mistake had crept up for the reason that the name of mother of the petitioner(s) was shown 'Anita' by the School in its records while forwarding the admission/examination form to the Central Board of Secondary Education.

6. On representation by the petitioner(s), the School i.e. 'Saraswati Vidya Mandir Senior Secondary Residential School, Vikasnagar, Shimla' carried out the necessary corrections in its records and corrected the name of the petitioner's mother as 'Neeta Devi'. It was in this background that this Court while disposing of the writ petitions observed as under:

"2.....There appears thus no legal impediment in the way of the CBSE Authorities in carrying out necessary corrections in the Matriculation and 10+2 Certificates of the petitioner, more so, when the School i.e. Saraswati Vidya Mandir, vide letter dated 13th March, 2019, has already requested the CBSE Authorities to make the necessary correction in the above-stated record."

7. Yet, 1st respondent has again rejected the claim of the petitioner(s).

8. After hearing the matter for some time, this Court on 27.08.2020 passed the following orders:

"Heard for some time. It appears that the case of the petitioner has been rejected by the CBSE on the basis of the records of the school. Whereas on the other hand, the school has already granted the relief to the petitioner by correcting mother's name as was sought for by the petitioner.

In such circumstances, it is necessary to have the stand of the school. Mr.Rajinder Thakur, learned counsel for respondent No.2 prays for and is granted two weeks time to file affidavit.

List on 10.09.2020. "

9. In compliance to the aforesaid orders, respondent No.2 filed an affidavit, the relevant portion whereof, reads as under:

"2. That, it is most respectfully stated that the petitioner and his mother had requested the respondent No.2 to make corrections in the name of petitioner's mother as her name has been wrongly entered in the records. As per mother of petitioner, her name is Neeta Devi and has wrongly been entered as Anita Devi. She had also shown/given the documents in support of her name. But the respondent No.2 did not make any corrections in her name rather advised her to follow the proper channel and get the name corrected in the records where mistake was committed initially and wrong name was entered.

3. That the respondent No.2 had initially entered the name of petitioners mother as Anita Devi on the basis of the school leaving certificate issued by his previous school i.e. Sai Vision Public Sen. Sec. School, Bhareri, tehsil Bhoranj, Distt. Hamirpur, Copy of School leaving certificate dated 02.04.2011 is annexed herewith as (Annexure A-1) for the kind perusal of this Hon'ble Court.

4. That in the month of October 2018 the petitioner and his mother visited Respondent No.2 with another school leaving certificate and informed the respondent that she got her name corrected in the school records of his previous school i.e. Sai Vision Public Sen. Sec. School Bhareri, tehsil Bhoranj, Distt. Hamirpur where it was initially entered wrongly and the deponent was requested to make further corrections, the school leaving certificate dated 17-10-2018 is annexed as Annexure A-2 for the kind perusal of this Hon'ble Court.

5. That the Deponent after getting school leaving certificate of previous school with changed/corrected name, sent it to the Central Board of School Education to carry out necessary corrections and changes desired by the petitioner, as the respondent No.2 is recognized from Central Board of School Education and has to follow its instructions and guidelines. Moreover, the petitioner has passed his 10th and 10+2 from Central Board of School Education and the corrections/changes in certificates if any have to be carried out by Respondent No.1."

10. We have heard the learned counsel for the parties and gone through the records of the case.

11. At the outset, we may observe that this Court while disposing of the writ petitions filed by the petitioner(s) had clearly observed that once the school had carried out necessary corrections in the Matriculation and 10+2 certificates, then there should be no legal impediment in the way of the CBSE to carry out necessary corrections. Yet, 1st respondent instead of showing due deference to the observations of the Court still chose to sit over the judgment of this Court on totally frivolous grounds, as is evident from finding (e) of the speaking order dated 16.09.2019, which reads as under:

"e) At the time of admission in class 11th in the same school i.e. Saraswati Vidhya Mandir, the candidate has given the same details with Mother name as

Anita Devi. It is important to mention here that on verification over phone, the Manager, Sai Vision Pub School has informed that father of petitioner has been his close friend and he has issued the TC dated 17.10.2018 at the request of the petitioner and her mother. No school record, though, has been furnished by Sai Vision School to corroborate his claim that TC and details/particulars are based upon previous school. Hence, the petitioner has not approached in clean hands and the records and the relief sought are suspicious not conforming the requirement of rule 69 of the Examination Bye Laws."

12. In case, 1st respondent had any doubt regarding the correctness, authenticity and veracity of the documents sent by the respondent-school or the earlier school where the petitioner(s) had studied, then it ought to have held a necessary inquiry by associating these schools in question and should not have acted like 'Sherlock Holmes'.

13. First respondent appears to have been totally oblivious that it was required to decide the case in light of the observations of the Court and not independent thereof. Once, the Writ Court had satisfied itself on the basis of the Matriculation Certificate, Ration Card, Aadhar Card and other official documents that the name of petitioner's mother was 'Neeta Devi' and not 'Anita' as recorded in the CBSE Matriculation and 10+2 certificates, then it was all the more reason that 1st respondent ought to have carried out corrections, rather than, dragging the petitioner(s) to an un-necessary and unwarranted litigation. Therefore, the order dated 16.09.2019 passed by 1st respondent is set aside.

14. Accordingly, the present execution petitions are disposed of with a direction to the respondents to carry out necessary corrections in the Matriculation and 10+2 certificates, as has been directed by this Court in its orders passed in CWP Nos. 1027 and 1031 of 2019, within a period of six weeks from today. Pending applications, if any, shall also stand disposed of.

15. For compliance, to come up on 09.11.2020.