
(2019) 08 RAJ CK 0300

In the Rajasthan High Court

Case No : Civil Writ Petition No. 10482 Of 2018

Bhanwari Devi @ Kailashi

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 09-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 08 RAJ CK 0300

Hon'ble Judges : Sangeet Lodha, J

Bench : Single Bench

Advocate : Devendra Soni, Sukesh Bhati, Navneet Singh Birkh

Final Decision : Dismissed

Judgement

1. By way of this writ petition, the petitioner is seeking directions to the respondent-Board of Secondary Education, Rajasthan ('the Board'), to make necessary correction in its record i.e. mark sheet/certificate of passing Secondary Examination of the petitioner's son by substituting his name as 'Mahaveer Bhambu @ Bhagat Singh' in place of 'Mahaveer Bhambu' and also to alter his date of birth as '23.4.2002' in place of '15.10.2003'.

2. The facts relevant are that the petitioner's son Mahaveer Bhambu passed the Middle (Class VIII) Examination and Secondary Examination conducted by the Board in the year 2015 and 2017 respectively. In the school record throughout, the name of the petitioner's son was recorded as 'Mahaveer Bhambu' and his date of birth as '15.10.2003'.

3. Learned counsel appearing for the petitioner contended that as per the birth certificate of the petitioner's son, his name is 'Bhagat Singh' and date of birth '23.4.2002'. It is submitted that on the request being made by the petitioner, his name has already been changed in the school record pursuant to the permission/sanction granted by the District Education Officer vide communication dated 26.9.16 and accordingly, necessary correction has also been made in the mark

sheet and passing certificate issued by the Board of Class VIII and thus, there is absolutely no reason as to why his name as prayed for should not be rectified in the mark sheet and certificate of Class X. Learned counsel submitted that the petitioner has already been granted admission in Class XI by the respondent-private school mentioning his name as 'Bhagat Singh' and date of birth as '23.4.2002' and therefore, the name and date of birth of the petitioner's son deserves to be rectified as prayed for. Learned counsel submitted that the change of the name of the petitioner's son also stands notified in the Official Gazette of the State Government dated 27.9.18, which could not have been ignored by the respondent Board.

4. On the other hand, counsel appearing for the respondent-Board submitted that if the petitioner was having the birth certificate of her son issued by the competent authority on 8.5.2002, then there was absolutely no reason as to why the name and date of birth of the petitioner's son was not entered in the school record in the first instance as per the said certificate. Learned counsel submitted that the District Education Officer (Secondary) has no authority whatsoever to grant permission or sanction to change the name and date of birth of a student in the school record, once the name and the date of birth of the student is entered in the certificate of passing Secondary Examination issued by the Board and thus, any change of name effected on the basis of the sanction/permission granted by the District Education Officer, has no legal sanctity. Learned counsel submitted that the Board vide communication dated 23.6.18 directed the Principal, Gayatri Madhyamik Vidhya Mandir to provide the entire scholar record of the petitioner's son starting from Class I but the same was not responded to. It is submitted that after passing the Secondary Examination, the change of the name of any candidate is not permissible. Learned counsel submitted that merely because, the petitioner on his own obtained the admission in a private school with his changed name, he does not become entitle to appear in examination in Class XII ignoring his name as mentioned in the mark sheet and certificate of passing of Secondary Examination issued by the Board. Learned counsel submitted that the change in the mark sheet of the petitioner of Class VIII has not been made by the Board rather, the change appears to have been effected by the school authorities solely on the basis of the permission alleged to have been granted by District Education Officer, which is ex facie without jurisdiction.

5. Indisputably, the birth certificate mentioning the name of the petitioner's son as 'Bhagat Singh' and date of birth as '23.4.2002' was issued by the Registrar, Birth & Death, Panchayat, Dhhehari on 8.5.2002. There is no explanation worth the name set out in the petition that if the certificate issued by the Registrar, Birth & Death was available with the petitioner, why the name of the petitioner's son was mentioned as 'Mahaveer Bhambhu' and date of birth as '15.10.2003' in the first instance when he was admitted to the school. It is relevant to mention here that as per the school register of the respondent School, the petitioner's son was admitted to class VI on 28.4.12, even at that time, no attempt was made by the petitioner for change of name and date of birth of her son as desired.

Obviously, the District Education Officer has no jurisdiction whatsoever to direct the change of the name and date of birth of the petitioner's son in the school record and the mark sheet of Class VIII and X issued by the Board. Strangely enough, a perusal of the corrected mark sheet placed on record reveals that the corrections as desired in the certificate of passing Class VIII Examination issued by the Board were made by the school authorities on their own and the certificate was never sent to the Board for necessary corrections in accordance with the rules. It is not even the case of the petitioner that the requisite record as requisitioned vide communication dated 23.6.18 was made available to the Board by the school authorities. In these circumstances, ignoring the unauthorised change made by the school authorities in the certificate of passing Class VIII Examination pursuant to the permission alleged to have been granted by the District Education Officer acting without jurisdiction, the Board was absolutely justified in refusing to effect the changes as prayed for. The publication of the change of name alleged to have been notified in the Official Gazette is only an affidavit of the petitioner containing averments in her own favour for the proposed change of name and date of birth of her son, which in no manner could be construed to be the notification of the change of name of the petitioner's son published by the State Government, on the basis of the declaration of the change of the name having been obtained by the petitioner in accordance with law. In this view of the matter, in the considered opinion of this court, the proposed change whereby identity of a person is sought to be changed, has rightly not been accepted by the Board, in absence of the cogent evidence being placed on record.

6. In view of the discussion above, no case for interference by this court in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India is made out.

7. The writ petition is therefore, dismissed. It is made clear that the dismissal of the petition shall not preclude the petitioner from pursuing the matter before the Board, after producing the relevant record requisitioned by the Board as aforesaid. It will be also open for the petitioner to avail appropriate remedy available under the general law to seek declaration of change of name and date of birth of her son.

No order as to costs.