

(2009) 03 DEL CK 0224
In the Delhi High Court
Case No : Writ Petition (C) 3577 of 2008

Dhruva Parate

APPELLANT

Vs

CBSE and Another

RESPONDENT

Date of Decision : 23-03-2009

Acts Referred:

Citation : (2009) 5 ILR Delhi 371

Hon'ble Judges : S. Ravindra Bhat, J

Bench : Single Bench

Advocate : Mohinder Singh, for the Appellant; Atul Kumar, for the Respondent

Final Decision : Allowed

Judgement

S. Ravindra Bhat, J.—The writ petitioner seeks a direction to the respondents (hereafter called "CBSE") to change his name from "Dhruva Pramod Parate" to "Dhruva Parate". He seeks a consequential direction to the CBSE to issue a fresh 10th class certificate after recording necessary change.

2. The petitioner is the son of Mr. P.M. Parate; he completed studies from the Delhi Public School, Vasant Kunj and appeared in the Class-Xth examination held by the CBSE in 2006. At that time, his name was "Dhruva Pramod Parate". The mark-sheet and certificate issued by CBSE recorded that name. It is contended that due to religious and astrological reasons, the petitioner's name was changed from "Dhruva Pramod Parate" to "Dhruva Parate". It is claimed that this name change was recorded by the school authorities in Office register dated 25.05.2006. The petitioner, therefore, sought for rectification of the name recorded by the CBSE. It is submitted that despite several reminders, the CBSE did not accede to the request. The petitioner submits to having got the changed name published in two daily newspapers, i.e. the Times of India and Navbharat Times on 04.05.2006. He also relies on the copy of an affidavit attested by the Notary Public on 27.04.2006, duly executed by his father.

3. The CBSE in its return contends that it is governed by the norms governing

the name change or correction which are contained in bye-law 69; it is in the following terms:

69 Changes in Board's Certificate

69.1 Changes and Correction in Name

i. No change in name/surname once recorded in the Board's records shall be made. However, correction in the name to the extent of correction in spelling errors, factual typographical errors in candidate's name/surname, father's name/mother's name or guardian's name to make it consistent with what is given in the school record or list of candidates (LOC) submitted by the school may be made.

Provided further that in no case, correction shall include alteration, addition, deletion to make it different (except as mentioned above) from the LOC or the school records.

ii. Application for correction in name/surname will be considered only within two years of the date of declaration of result provided the application of the candidate is forwarded with the following documents:

(a) Admission form(s) filled in by the parents at the time of admission.

(b) The School Leaving Certificate of the previous school submitted by the parents of the candidate at the time of admission.

(c) Portion of the page of admission and withdrawal register of the school where the entry has been made in respect of the candidate.

iii. The Board may effect necessary corrections after verification of the original records of the school and on payment of the prescribed fee.

4. The CBSE submits that initially the petitioner was studying in Delhi Public School, Noida; he migrated to Delhi Public School, Vasant Kunj in April 2003. The form filled by his father on 07.04.2003 reflected his name as "Dhruva Pramod Parate." The CBSE also refers to the Admission Register of the Delhi Public School and the details received from the school, which described petitioner's name as "Dhruva Pramod Parate".

5. The CBSE relies upon the order of this Court in *Naina Anand v. CBSE* (W.P. 4973/2008 dated 03.09.2008) and *Miss Parul Dabas v. CBSE* (W.P. 7933/2007 decided on 18.09.2008) and submits that name changes made after the issuance of the certificate will be recorded in respect of later examinations and no infirmity can be found with the certificate issued for an earlier period or examination.

6. The narrow controversy requiring decision in this case is whether the petitioner can claim the direction he seeks, for reflection of the name change made by him after the certificate was issued, in 2006. A reading of bye-law 69 undoubtedly suggests that name changes can be considered and granted within two years. The definition of name change includes errors, typographical errors in

the candidate's name, surname, mother's name or alteration and deletion to bring it in conformity with the school record. The bye-laws also suggest that a two-year period has been prescribed for suo motu correction; they further mandate that applications regarding changes in names, surnames etc. can be granted provided they are admitted by the Court of law and notified by the Government Gazette before publication of results of the candidates.

7. The applicability of bye-law 69.1(ii), in the opinion of the Court, is undoubtedly meant to limit the discretion of the CBSE. The two-year period imposed by it and the restriction of having to change the name before the publication of results are likewise self-imposed. Concededly, the question is not governed by any statute - in that sense, there is no legislative mandate controlling the exercise of this discretion. In this case, though the petitioner's name was different when he appeared in the Class-X, the fact remains that it was subsequently changed; the same was also notified in the newspapers and the school records were duly corrected. Such being the case, when the identity of the person, father's name and the school are undisputed and a series of records, also reflect the name change, all that the CBSE is putting forward is a self-imposed limitation or restriction.

8. The interests of efficiency of an organization ordinarily determine the guidelines that have to be administered; yet when they constrain the authorities of the organization, which is meant to sub-serve the general public, from doing justice, in individual cases, the guidelines become self-defeating. In such cases, as in the present one, the end result would mean that the petitioner would be left with two certificates with different names and a whole lifetime spent possibly on explaining the difference - hardly conducive to him, reflecting the inadequacy in the system.

9. It is settled law that an executive agency operating within the field of its discretion, cannot unduly fetter or circumscribe, it Ref. Indian Aluminium Company Vs. Kerala State Electricity Board, ; J.K. Aggarwal Vs. Haryana Seeds Development Corporation Ltd. and others,].

The CBSE's decision is precisely one enforcing a condition which fetters and restricts its otherwise wide discretion in the matter. Accepting its plea would mean fostering the injustice, which is unacceptable to the Court.

10. In view of above discussion, the writ petition deserves to succeed; the CBSE shall issue a fresh Class X Certificate and mark-sheet, reflecting the petitioner's changed name "Dhruva Parate". This shall be done within six weeks of the petitioner's depositing or surrendering existing mark-sheets and certificate. The writ petition is allowed in the above terms; no costs.