
(2017) 01 GAU CK 0055
In the Gauhati High Court
Case No : WP(C) No. 4742 of 2016

Hirofsberg Rongphar

APPELLANT

Vs

Registrar, Assam University

RESPONDENT

Date of Decision : 05-01-2017

Acts Referred:

Constitution of India, 1950 — Article 226
Evidence Act, 1872 — Section 81

Citation : (2017) 1 GauLT 745

Hon'ble Judges : Mr. Ujjal Bhuyan, J.

Bench : Single Bench

Advocate : Mr. M. Sarania, Advocate, for the Petitioner; Mr. S.C. Keyal, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Mr. Ujjal Bhuyan, J.— Heard Mr. M. Sarania, learned counsel for the petitioner and Mr. S. C. Keyal, learned counsel appearing for the Assam University, Silchar.

2. By filing this petition under Article 226 of the Constitution of India, petitioner seeks a direction to the respondents i.e. Assam University authorities to change his name from Hirumoni Rongphar to Hirofsberg Rongphar in the University record prospectively.

3. Case of the petitioner is that he is presently pursuing the course of MA in History in the Assam University, Diphu campus. According to the petitioner, he was earlier known as Hirumoni Rongphar and this name is reflected in all the certificates, be it matriculation and graduation. Now after a conscious decision, he has changed the name from Hirumoni Rongphar to Hirofsberg Rongphar. In this connection, petitioner has sworn an affidavit on 17.12.2013 before the Notary Public, Kamrup (M). Thereafter, petitioner again swore an affidavit before the Judicial Magistrate, First Class, Kamrup (M) on 08.01.2016 indicating change in his name from Hirumoni Rongphar to Hirofsberg Rongphar. This was notified

in the widely circulated newspaper "The Assam Tribune" on 30.01.2016. Thereafter, on an application filed by the petitioner, Directorate of Printing and Stationery, Assam notified in the Assam Gazette on 17.02.2016 that petitioner would henceforth be known as Hirolfsberg Rongphar instead of Hirumoni Rongphar.

4. After the aforesaid formalities were carried out petitioner submitted application before the Controller of Examinations, Assam University on 11.03.2016 requesting change in his name in certificates of the University prospectively. However, that was not done and subsequent certificates issued by the University reflected the earlier name of the petitioner. On legal notice being served on the University authorities, Controller of Examinations, Assam University replied on 07.06.2016 that as per policy followed in the Assam University name of a student shall be recorded as appearing in the matriculation certificate and that no deviation would be permitted. Unless the petitioner changes his name in the matriculation certificate, it would not be possible on the part of the Assam University authorities to record change in the petitioner's name in the University records merely on the basis of an affidavit sworn by the petitioner.

5. Aggrieved, present writ petition has been filed.

6. This Court by order dated 10.08.2016 had issued notice.

7. Upon receipt of notice, respondents i.e. Assam University authorities have filed an affidavit. Stand taken in the affidavit is that Assam University stands by the reply given by the Controller of Examinations, Assam University dated 07.06.2016 in response to the legal notice of the petitioner. It is stated that in Column No. 4 of the Assam University Registration Process, name of the candidate should be written in the application form as per name recorded in the HSLC admit card/mark-sheet/certificate and that no deviation is allowed. It is stated that petitioner's new name would be taken into consideration only if the original name is changed in the HSLC records and all other educational records and certificates.

8. Mr. Sarania, learned counsel for the petitioner submits that the stand adopted by the Assam University authorities appears to be quite rigid and not at all flexible. He submits that there is no statutory provision governing recording of change of name of a university student. In such circumstances, it is within the administrative discretion of the University authorities to record change in the name of a student. When discretion is vested, the same is required to be exercised in a fair and judicious manner. Referring to the 24th report of the Law Commission of Karnataka, he submits that Law Commission of Karnataka has suggested that in the event of change in the name of a candidate the same should be permitted but only prospectively. He has also placed before the Court a decision of a Single Bench of the Delhi High Court in *Dhruva Parate v. CBSE*, WP(C) No. 3577 of 2008 decided on 23.03.2009, wherein the Delhi High Court

allowed change of name of the petitioner from Dhruva Pramod Parate to Dhruva Parate. He submits that in the said judgment Delhi High Court had observed that an executive agency operating within the field of its discretion cannot unduly fetter or circumscribe it. Further submission of Mr. Sarania, learned counsel for the petitioner is that by accepting the request of the petitioner, no inconvenience or administrative dislocation would be caused to the functioning of the university.

9. Replying to the submissions made by learned counsel for the petitioner, Mr. S.C. Keyal, learned counsel appearing for the Assam University submits that stand taken by the University authorities is the correct one. If the prayer of the petitioner is accepted, it may lead to uncertainty and chaos; while the previous record of the petitioner would reflect his name as Hirumoni Rongphar, subsequent record would disclose his name as Hirolfsberg Rongphar which may create confusion in the public domain. Therefore, University has taken the stand that it would go by the name recorded in the matriculation certificate and unless there is a change in the matriculation certificate it would not deviate from the name so recorded in the University record. Therefore, there is no error or infirmity in the view taken by the Assam University. Thus no interference is called for.

10. Submissions made by learned counsel for the parties have received the due consideration of the Court.

11. Issue raised in the writ petition appears to be quite simple and therefore the endeavour would be to seek a simple and uncomplicated solution.

12. In the course of one's life a person undergoes various stages of change and transformation which may manifest in diverse ways, including by way of change in name. Change in the name of a person in our country is not unusual; rather, it is an acceptable phenomenon. While the Assam University authorities may be justified in the approach that they have taken, some amount of flexibility is required in the decision making as otherwise it may come in the way of petitioner's right to mould his life in the manner he chooses. This is a case where the petitioner would now like to be known as Hirolfsberg Rongphar instead of Hirumoni Rongphar which name is recorded in his past certificates and there appears to be no legal impediment to it.

13. While going through the case record, a document of Delhi University dated 12.08.2008 has come to the notice of the Court. This document was issued by the Registrar of the Delhi University and addressed to all the Principals/Deans/ Heads of Institutions/Heads of Departments within Delhi University. This document deals with change of name of a student of Delhi University after enrolment and says that change in the name would be accepted on the basis of change made in the matriculation certificate or its equivalent certificate or on submission of the following documents by the concerned student where after the name after change would be read as "changed name alias/nee earlier name". The documents to be considered are as under :-

"i. An application duly forwarded by the Head/Principal of the concerned Deptt./ College along with a fee of Rs.50/-.

ii. Newspapers cutting (in original) after advertising the desired change in name in two Indian leading daily English/Hindi Newspapers.

iii. Declaration (specimen enclosed) on a Non-judicial stamp paper worth Rs.10/- (in original).

iv. Original copy of the Government of India Gazette: notifying the change in name.

v. An affidavit on a non-judicial stamp paper worth Rs. 10/-(in original) executed in the court and sworn before a Magistrate regarding change in name.

vi. University Enrolment Number.

vii. Application for change of name will not be entertained from a person who is not connected with the University as a student at the time of making the application."

14. Learned counsel for the petitioner submits that Delhi University is a central university and the procedure adopted by the Delhi University appears to be a fair one; therefore, an uniform procedure should be adopted by the Assam University, which is also a central university. However, Mr. Keyal submits that he is not very sure about this aspect of the matter.

15. While acknowledging that Assam University is an autonomous institution having its own rules and regulations, Court is of the view that the procedure adopted by the Delhi University as above appears to be quite a reasonable and pragmatic one. Moreover acceding to the request of the petitioner would not cause any administrative dislocation in the University. Besides, the prayer of the petitioner does not appear to be a frivolous one because he has already taken a series of steps following change in his name by swearing affidavits, publication in the newspaper and notifying in the State Gazette.

16. Section 81 of the Indian Evidence Act, 1872 says that the Court shall presume the genuineness of the official Gazette. In *ITC Bhadrachalam Paper Boards v. Mandal Revenue Officer* reported in (1996) 6 SCC 634, the Supreme Court explained that the object of publication in the Gazette is not merely to give information to the public; it is an official document. It is published under the authority of the Government. Court will take judicial notice of what is published therein, unlike publication in a newspaper, which has to be proved as a fact as provided in the Evidence Act. Change in the petitioner's name having been notified in the Gazette, the same cannot be ignored.

17. In such circumstances, Court is of the view that respondents should favourably consider the request of the petitioner in the light of the discussions made above. Accordingly, respondent No. 1 i.e. Registrar, Assam University is directed to do the needful for changing the name of the petitioner from Hirumoni

Rongphar to Hirolfsberg Rongphar in the University records with prospective effect. This shall be done within a period of 8 (eight) weeks" from the date of receipt of a certified copy of this order.

18. Writ petition is accordingly allowed but without any order as to cost.