

(2021) 12 J&K CK 0063

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 890 Of 2018, IA No. 01 Of 2018

Jabir Hussain

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

Date of Decision : 29-12-2021

Acts Referred:

Jammu And Kashmir State Board Of School Education Regulations, 1992 — Regulation 15

Citation : (2021) 12 J&K CK 0063

Hon'ble Judges : Vinod Chatterji Koul, J

Bench : Single Bench

Advocate : Masooda Jan, Mir Majid Bashir, Irfan Andleeb, Shah Aamir

Final Decision : Disposed Of

Judgement

Vinod Chatterji Koul, J

1. Petitioner seeks correction of caste as according to him, the caste "Lone" has been wrongly shown in his Secondary School Examination Certificate issued by the J&K State Board of School Education. Petitioner claims that he belongs to backward area of Kharboo Drass but studied in Srinagar and completed his schooling in Shahi-Hamdan Educational Institute, Khumaini Chowk, Bemina and thereafter got admission in JK Police Public School, Jammu. According to him in his Secondary School Examination Certificate, his name has been shown as "Jabir Hussain Lone" instead of "Jabir Hussain". Petitioner claims that he has no such caste of "Lone" anywhere in records neither any such caste exists in the area of Kargil District. So, he approached respondents pleading deletion of last name "Lone" from the Secondary School Examination Certificate and in support of his plea he produced all required and relevant documents.

However, vide letter no.2570/ LNo-02(v)(Certs.CC-Major)B/KD/2018 dated 7th April 2018, conveying petitioner that his request for deletion of Caste does not come under the purview of rules and regulations governing the cases of deletion

of caste. Aggrieved thereof, petitioner has come up with instant writ petition seeking following relief:

a. A writ, order or direction including one in the nature of certiorari quashing the letter dated 07.04.2018 issued by respondents.

b. A writ, order or direction including one in the nature of Mandamus, commanding to make necessary correction in the certificates issued or yet to be issued to petitioner.

c. A writ, order or direction including one in the nature of Mandamus, commanding upon the respondents to delete the word LONE from the name of petitioner by making necessary correction in the records pertains to petitioner as per documents required for correction.

d. A writ, order or direction including one in the nature of Mandamus, commanding the respondents to do the needful within specific period in order to save the petitioner from any inconvenience in future.

2. Reply has been filed by respondents 2&3. They state that impugned order rejecting petitioner's case for correction of caste does not suffer from an infirmity or illegality.

3. I have heard learned counsel for parties and considered the matter.

4. In the present case, correction, or for that matter deletion, of Caste in the name, parentage of caste etc., is provided in Regulation 15 of the J&K State Board of School Education Regulations, 1992. Thus, it would be profitable to reproduce Regulation 15 hereunder:

"15. Correction in name, parentage, sub-caste, etc. Candidate who has been enrolled for any examination of the Board applying for change in his name, or in the name of his father or guardian or sub-caste is required to pay the prescribed fee and the following procedure shall be followed in this behalf:-

(i) An affidavit duly sworn before a 1st Class magistrate by the father or the guardian of the student, and advertisement in at least one local newspaper, will be necessary in all such cases where change in name or sub-case of the candidate is sought for purpose of proving identity.

(ii) Besides advertising the change in name, parentage or sub- caste in any one local newspaper the proposed change shall be advertised in the Government Gazette.

(iii) No application shall be entertained unless ordinarily it comes through the Principal/Headmaster/Headmistress of the Higher Secondary / Secondary School last attended by him or her and is invariably accompanied by the Affidavit and the cutting from the Newspaper in which the advertisement is published within a period of one year from the date of issue of the Secondary School Education qualification certificate.

Provided that a candidate who has not been a regular student of any recognized school may apply direct to the Secretary of the Board.

(iv) Change in parentage may be made in the Board records only in cases where it is established by the filing of an Affidavit duly attested by a Magistrate of Class 1st, to the effect that the mistake was bona fide and due to clerical error. The above procedure will also be followed in the connection.

(v) Only one change either in the candidate's name or sub- caste or in parentage should be made at a time.

(vi) All applications for change in name, parentage, or sub- caste or sub-caste by students who cannot produce the school record shall be considered by the Board on its merits."

5. According to respondents, case of petitioner does not come under purview of Rules and Regulations governing the cases of Deletion in Caste because no variation was observed between the school records and the record maintained by respondent-Board.

6. Learned counsel for petitioner has stated and rightly so that the caste

"Lone" shown with the name of petitioner will have awful consequences on his future and career. He in support of his submission has placed reliance on a judgement dated 16th July 2013, passed by this Court in OWP no.1501/2011 titled Latief Ahmad Mir and another v. State and others, to contend that it is duty of respondent-Board, being custodian of records, to maintain the correct record as and when it is shown to the satisfaction of the authorities that incorrect/wrong record has been maintained, then they are duty bound to correct their records.

7. There is substance in the submission of learned counsel for petitioner. Respondents are under obligation to maintain correct records and in this regard make corrections as and when detected or brought into their notice.

8. In view of above, writ petition is allowed and impugned order bearing no.2570/ LNo-02(v)(Certs.CC-Major)B/KD/2018 dated 7th April 2018, is quashed. Respondents are directed to make necessary corrections in the records pertaining to petitioner including in the Secondary School Examination Certificate by deleting the caste "Lone" and, accordingly, issue a new Secondary School Examination Certificate in favour of petitioner. This exercise shall be undertaken and concluded by respondents within eight weeks from the date copy of this order is served upon them.

9. Disposed of.