

(2019) 01 DEL CK 0143

In the Delhi High Court

Case No : Civil Writ Petition No. 6147 Of 2018

Master Utkarsh Raj Through: His Mother & Natural Guardian APPELLANT
Smt. Sangita

Vs

Regional Officer (Cbse) And Anr RESPONDENT

Date of Decision : 15-01-2019

Acts Referred:

Evidence Act, 1872 — Section 114

Citation : (2019) 01 DEL CK 0143

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : Harkirat Sawhney, Ashok Kumar, Rashmi Bansal, Abdullah Tanveer

Final Decision : Allowed

Judgement

1. The petitioner Utkarsh Raj is a Class XII student of the Kendriya Vidyalaya, Delhi Cantonment. He has moved this Court, by means of the present writ petition, with a prayer for issuance of a direction, to the Central Board of Secondary Education (CBSE) to change the name of his mother, as reflected in his Class X Grade Sheet cum Performance Certificate from "Sangeeta Raj" to "Sangita".
2. In support of his claim, the petitioner submits, in this writ petition, that the name of his mother, in all statutory documents, such as the Aadhaar Card and the PAN Card is shown as "Sangita", sans the "Raj" suffix.
3. Mr. Harkirat Sawhney, learned counsel appearing for the petitioner has drawn my attention to the extant guidelines, of the CBSE, governing the cases involving changes and corrections in the names of the candidate or her/his parents. It may be noted that, with effect from 25th June, 2015, the said Guidelines, as contained in Clauses "(i) and (ii)" of Bye-law 69.1 of the applicable Bye-laws of the CBSE, were amended. The pre amendment and post amendment Bye-laws may, for ready reference be reproduced as under :

Rule No.

Existing Rule

Amended Rule

69.1(i)

Change in name of candidate/Father/Mother/Guardian once entered in the Board's record at any stage while studying in Class IX, X, XI, XII or thereafter, within a period of ten years from the date of issue of first such document shall be considered on written request of the considered, Candidate (not minor)/father/mother/guardian duly forwarded by the Head of the Institution supported by the following documents:

- a) Original copy of two newspapers (daily English/Hindi newspaper at National level & daily newspaper in a vernacular language circulated in the locality), in which the desired change has been published.
- b) Original Affidavit duly sworn before the Judicial Magistrate, First Class/Metropolitan Magistrate/Executive Magistrate/Sub Divisional Magistrate.
- c) Original copy of Publication in Government Gazette.
- d) Payment of prescribed fee.
- e) True copy of admission form filled in by the parents duly updated as per Gazette Notification of desired change and duly attested by the Head of the concerned institution.
- f) True copy of School Leaving Certificate at the previous school submitted by the parent/candidate at the time of admission and updated as per Gazette Notification of desired change, duly attested by the Head of the concerned institution.
- g) True copy of the page of admission and withdrawal register of the school where the entry has been made in respect of candidate showing updation as per Gazette Notification of desired change, duly attested by the Head of the concerned institution.

Applications regarding changes in name or surname of candidate may be considered provided the changes have been admitted by the Court of Law and notified in the Government Gazette before the publication of the result of the candidate.

69.1(ii)

Correction in name to the extent of correction in spelling errors, factual typographical errors in the 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.

Application for correction in name of candidate/father's/mother's/ guardian's

name will be considered only within ten years of the date of declaration of result provided the application of the candidate is forwarded by the Head of Institution with the following attested documents:

- a) True copy of Admission form(s) filled in by the parents at the time of admission duly attested by the Head of the concerned institution.
- b) True copy of the School Leaving Certificate of the previous school submitted by the parents of the candidate at the time of admission duly attested by the Head of the concerned institution.
- c) True copy of the portion of the page of admission and withdrawal register of the school where the entry has been made in respect of the candidate, duly attested by the Head of the concerned institution.

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

Correction in name to the extent of correction in spelling errors, factual typographical errors in the 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 list of candidates (LOC) submitted by the school may be made.

Application for correction in name of Candidate/father's/mother's/guardian's name will be considered only within one year of the date of declaration of result provided the application of the candidate is forwarded by the Head of institution with the following attested documents:

- a) True copy of admission form(s) filled in by the parents at the time of admission duly attested by the Head of the concerned institution.
- b) True copy of the School Leaving Certificate of the previous school submitted by the parents of the candidate at the time of admission duly attested by the Head of the concerned institution.
- c) True copy of the portion of the page of admission and withdrawal register of the school where the entry has been made in respect of the candidate, duly attested by the Head of the concerned institution.

4. Mr. Sawhney points out that Bye-law 69.1(i) would not apply to his case, as the amended Bye-law covered only cases of change in name or surname of the candidates. Bye law 69.1(ii), he submits, covers cases of correction in the names of the candidate or her/his parents. Mr. Sawhney seeks to pigeonhole his case within the said clause.

5. Mr. Sawhney relies, in his support, on the judgment of a Division Bench of this Court in *Arya Kariyatil Chendakera v. Central Board of Secondary Education.*, 2018 SCC OnLine Del 8402.

6. Per contra, Mr. Ashok Kumar, learned counsel for the CBSE, would seek to contend that clause 69.1(ii) is clearly not applicable, as the said clause only

covers cases where correction is sought in order to make the changed name "consistent with what is given in the school record". He submits that, even as per the affidavit filed by the Respondent No.2 - School in the present case, the school record reflected the name of the petitioner's mother as "Sangeeta Raj". As such, Mr. Ashok Kumar, would submit that the change sought by the petitioner would result in disharmony between the CBSE's marksheet and the school record of the petitioner, which would be contrary to Bye-law 69.1(ii).

7. Apropos Bye-law 69.1(i), Mr. Ashok Kumar would seek to submit that the word "candidates", as used in the said Bye-law, is necessarily required to be interpreted as including the candidates as well as their parents.

8. Mr. Ashok Kumar would also seek to rely on a judgment of the Division Bench of this Court in Mazhar Saleem Chandroth (Minor) Thr. Saleem Chandroth (Father and Natural Guardian) v. CBSE 2018 SCC OnLine Del 8401.

9. I have considered the rival submissions and applied my mind to the issue at hand.

10. The submission, of Mr. Sawhney, that the case of his client cannot be brought within the ambit of Bye-law 69.1(i) is, in my view, clearly unexceptional. The said Bye-law, as amended with effect from 25th June, 2015, covers only changes in the name or surname of candidates, and not of their parents. Why, or for what reason, the CBSE decided, while amending the Bye-law, to do away with cases of change in the name of the parents of the candidates, is anybody's guess. Suffice it to state that it is not for this Court to rewrite the Bye-law, which has been framed by the CBSE, which is not under challenge before this Court.

11. I find substance, therefore, in the submission of Mr. Sawhney that Bye-law 69.1(i) cannot be invoked either by his client or by the CBSE.

12. For that reason, the reliance, by Mr. Ashok Kumar on the judgment in Mazhar Saleem Chandroth (supra) has to be treated as misguided, as the said judgment dealt with the case of a change in name of the candidate, and, therefore, invoked Bye-law 69.1(i).

13. Apropos Bye-law 69.1(ii), undoubtedly, if one were to read the said Bye-law, it would appear that it can be invoked only in order to bring the record of the CBSE in line with the school record. At the same time, sitting singly, I cannot ignore the judgment of the Division Bench of this Court in Arya Kariyatil Chendakera (supra), which dealt with the case of change of name of the candidate's parents, and also notes the fact that the school records recorded the wrong name. A reading of para 2 of the said judgment clearly reveals that the contention of the petitioner in that case was that her, and her parents names were "Arya Kariyatil Chandakera", "Kariyatil Chendakera Deleep Kumar" and "Kavitha Deleep" whereas the school records inadvertently noted them as "Arya K C", "K C Dilip" and "Kavitha Dilip". As such, this case, too, dealt with a situation in which the corrections/changes sought were contrary to the entries

contained in the school records.

14. Despite the said fact, the Division Bench of this Court has held that the change of name of the mother of the appellant from "Kavitha Dilip" to "Kavitha Deleep" and, even more particularly, of her father from "K C Dilip" to "Kariyatil Chendakera Deleep Kumar" (i.e. with the addition of the "Kumar" suffix) came within the sphere of Bye-law 69.1(ii) and, on that ground, allowed the claim of the petitioner.

15. In my view, the case of the present petitioner cannot be distinguished from that of the petitioner in *Arya Kariyatil Chendakera* (supra). As in that case, in the present case, too, the change sought is not in the name of the petitioner [as was the case in *Mazhar Saleem Chandroth* (supra)], but in the name of the petitioner's parent. In *Arya Kariyatil Chendakera*, the Court brought the case within the ambit of Bye-law 69.1(ii). Following thereupon, this Court permitted in the case of the father of the petitioner in that case, (i) expansion of his initials from "K C" to "Kariyatil Chendakera", (ii) change of the spelling of his name, from "Dilip" to "Deleep" and (iii) addition of the suffix "Kumar".

16. In the present case, all that is sought is change of the spelling of the petitioner's mother from "Sangeeta" to "Sangita" and deletion of the suffix "Raj". I do not see how the present case can be distinguished, in any manner, from the case of *Arya Kariyatil Chendakera* (supra) which, being a judgment rendered by a Division Bench of this Court, is squarely binding on me.

17. It is also significant, in this context, to note that the changes sought are supported by the entries, regarding the name of the petitioner's mother, as entered in her Aadhaar Card and her PAN Card, which are statutory documents and are, therefore, entitled to considerable value, inter alia, by virtue of Section 114 of the Evidence Act.

18. The petitioner admittedly approached the CBSE, for change/correction of the name of his mother, within the prescribed period, as per the Bye-laws, referred to hereinabove.

19. In view thereof, I am of the view that the writ petition is entitled to succeed. It is accordingly allowed. The CBSE is directed to correct the name of the petitioner, in her Class X Grade Sheet cum Performance Certificate from "Sangeeta Raj" to "Sangita" by way of issuance of a fresh certificate containing the corrected name. The petitioner would be required, for the said purpose, to deposit the original certificate, containing the uncorrected name, with the CBSE which he is directed to do within a period of one week from today. The requisite corrections be effected by the CBSE within four weeks thereof.

20. There shall be no order as to costs.