
(2020) 07 RAJ CK 0149

In the Rajasthan High Court

Case No : Civil Writ Petition No. 21249 Of 2019

Mayank Vaishnav

APPELLANT

Vs

Central Board Of Secondary Education, Shiksha Kendra And
Ors

RESPONDENT

Date of Decision : 08-07-2020

Acts Referred:

Citation : (2020) 07 RAJ CK 0149

Hon'ble Judges : Sanjeev Prakash Sharma, J

Bench : Single Bench

Advocate : Hasan, Rahul Kamwar, M.S. Raghav

Final Decision : Disposed Of

Judgement

The petitioner has preferred this writ petition with a prayer that the name of his mother mentioned in Secondary School Examination (Class-X) Record

be corrected and the corrected mark-sheet and certificate showing name of the petitioner's mother as ""Laxmi Vaishnav"" be issued instead of ""Sonu

Vaishnav"". A further prayer has also been made to quash the order dated 1 st March, 2019 issued by the respondent - CBSC rejecting the application

moved by the petitioner for the said purpose.

Learned counsel appearing for the petitioner submits that the name of the petitioner's mother is ""Laxmi Vaishnav"" and she had changed her name

from ""Sonu Vaishnav"" to ""Laxmi Vaishnav"" and a gazette notification in this regard was also published on 29 th August, 2019 and in all the documents

thereafter, she is being shown as ""Laxmi Vaishnav"". Learned counsel submits that 10 th Class Certificate has an important bearing for all future

purposes for the petitioner and if the name of the mother of the petitioner is not

changed, it will cause great hardship to the petitioner for all purposes in future.

Learned counsel relies on judgment passed by this Court in S. B. Civil Writ Petition No. 18013/2018: Ishita Khandelwal Versus Regional Officer,

Central Board of Secondary Education & Anr., decided on 22.05.2019, which has been upheld by the Division Bench in D.B. Special Appeal (Writ)

No.838/2019 vide order dated 13th December, 2019, to submit that the Rules framed by the CBSE are non-statutory and they cannot come in the way

for a rightful claim of change of name of mother.

Per contra, learned counsel appearing for the CBSE submits that Rule 69.1(i) as amended on 1st February, 2018 provides that the change in name or

surname of candidates/parents may be considered provided that changes have been admitted by court of law and notified in Government Gazette

before publication of result of the candidates. He submits that as the 10 th Class Certificate was issued prior to gazette notification, the name cannot

be changed in 10th Class Certificate. He also points out that in the application, which was moved for admission in the school the name of the

petitioner's mother was mentioned as ""Sonu Vaishnav"" and Birth Certificate issued on 15 th December, 2003 also mentions mother's name as ""Sonu

Vaishnav"". The said Birth Certificate was later on changed on 20 th March, 2018 mentioning name of mother of the petitioner as ""Laxmi Vaishnav"".

The original Birth Certificate has been withheld by the petitioner, which shows his mother's name as ""Sonu Vaishnav"". Learned counsel submits that

after gazette notification, in future examinations, the name of the petitioner's mother shall be mentioned as ""Laxmi Vaishnav"", but the gazette

notification cannot have a retrospective effect.

I have considered the submissions as above and perused the material available on record.

This Court has in Ishita Khandelwal (supra), decided on 22.05.2019, held as under:

In the opinion of this Court such rules framed by CBSE go contrary to the basic principles laid down in the circumstances regarding individual to have

his identity recognised from his/her parents, the CBSE cannot be allowed to force any individual to have his mother's name or his father's name

different from what his/her mother's name or father's name is known in the

society as well as in the records. If such rules are applied for denying a candidate from getting correction done in the mark-sheet or certificates, the same have to be declared as ultra vires to the rules since the rules not statutory.

This Court need not further delve into the issue and direct the CBSE to immediately take steps for correction in the certificate issued to the petitioner within a period of seven days from the date of submitting a certified copy of this order. It is made clear that if the correction is not made within seven days, the concerned officer shall be liable to face contempt proceedings.

A candidate, who has appeared in the examination, has to mention his/her father's name as well as his/her mother's name.

The question, which arises before this Court is whether later on, if mother's name is changed, which is reflected in her/his documents, what relief can be given to the concerned child whose documents show name of mother, which was existing prior to the change made.

Admittedly, Class-X Examination Certificate has a bearing with regard to the date of birth and name of parents for the purpose of future career of an

individual. If the name of the mother is found to be different in Class-X Board Certificate from that of documents relating to the mother; an individual

will not be entitled to get a passport and difficulties may also arise at different other levels. Admittedly, in the present case, the petitioner's mother has

got her name changed by gazette notification published in August, 2019. The said fact was brought to the notice of the Board with a prayer for

changing the mother's name in the Certificate. The name of the petitioner's mother ought to have been corrected/amended by issuing a fresh

certificate of Class-X by the Central Board of Secondary Education and this Court finds the adamant shown by the Board to be without any basis.

Merely because a gazette notification has been issued subsequently, its effect on a document published earlier, will have to be considered.

The Board is therefore directed to issue an amended Certificate mentioning the new name of the petitioner's mother as ""Laxmi Vaishnav"" instead of

Sonu Vaishnav"". In the said Certificate, noting shall be entered by the board to the effect that the name of the mother of the petitioner is changed on

account of gazette notification dated 29th August, 2019. The said exercise shall be conducted within a period of one month from the date a certified

copy of this order is produced.

With the observations and directions, as indicated above, the writ petition is disposed of.

All the pending applications also stand disposed of.