
(2017) 01 GAU CK 0002
In the Gauhati High Court
Case No : WP(C) No. 6686 of 2016

Paritosh Deb

APPELLANT

Vs

Central Board of Secondary Education

RESPONDENT

Date of Decision : 05-01-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 GauLT 26

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

Bench : Single Bench

Advocate : Mr. R.R. Kaushik, Advocate, for the Petitioner; Ms. R. Bora, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Ujjal Bhuyan, J.— Heard learned counsel for the petitioner and learned counsel appearing for the Central Board of Secondary Education (CBSE) i.e. respondent Nos. 1, 2 & 3.

2. In so far respondent No. 4 is concerned this Court while issuing notice on 07.11.2016 permitted the petitioner to serve the said respondent personally through the Registry of this Court and thereafter to file affidavit. An affidavit has been filed on behalf of the petitioner today wherein it is stated that a notice of the proceeding was served upon respondent No. 4 on 04.01.2017, the acknowledgement of which has been annexed to the affidavit. On due consideration, personal service of notice on respondent No. 4 is accepted.

3. Service is complete.

4. By filing this petition under Article 226 of the Constitution of India petitioner seeks quashing of letter dated 20.07.2016 of the Regional Office, CBSE, Guwahati declining to record change in the name of petitioner's son from Pinak Pani Deb to Adhish Deb and further seeks a direction to the respondents to change the name of petitioner's son as above in all records and certificates of

the CBSE.

5. Case of the petitioner is that his son earlier studied in Kendriya Vidyalaya, Khanapara, Guwahati which is affiliated to CBSE. He cleared Class-X examination from that School. Thereafter, he took admission in Class-XI in the NPS International School, Betkuchi, Guwahati which is also affiliated to CBSE. While at NPS International School, petitioner changed the name of his son from Pinak Pani Deb to Adhish Deb. In this connection petitioner had sworn an affidavit before the Judicial Magistrate, First Class, Kamrup (M) at Guwahati on 04.02.2016. Thereafter, change of name was advertised in the widely circulated newspaper "The Assam Tribune" on 29.02.2016. Subsequently, the change in the name of petitioner's son was also published as a public notice on 20.06.2016 which was notified in the Assam Gazette on 27.07.2016.

6. Petitioner submitted an application before the Principal, Kendriya Vidyalaya, Khanapara, Guwahati on 29.02.2016 requesting change in the name of his son as above in the school record and to transmit the change of name to the CBSE authority. It is stated that Principal of Kendriya Vidyalaya forwarded the application of the petitioner along with the relevant documents to the CBSE's Regional Office at Guwahati on 04.05.2016. However, by the impugned letter dated 20.07.2016 the request was turned down.

7. Aggrieved, present writ petition has been filed seeking the relief as indicated above.

8. No affidavit has been filed by the respondents. However, Ms. Bora, learned Standing Counsel, CBSE submits that CBSE stands by the letter dated 20.07.2016.

9. Submissions made have been considered.

10. At the outset it would be apposite to consider the stand taken by the CBSE which is reflected in the letter dated 20.07.2016. Relevant portion of the letter dated 20.07.2016 reads as under :-

"Kindly refer to your letter/endorsement No. 201468/350/12/2016-17/KVK/124 Dated 04/05/2016 on the subject cited above. I am to inform you that as per HQ order No. CBSE/Coord/C-31-03/2015/19859-90 dated 25.06.2015 regarding Additions/Amendments in CBSE "Exam Bye-laws" this office is unable to process your request on account of the reasons below :-

1. As per amended rule 69.1 of Examination Bye-laws of the Board, applications regarding change in name or surname of the candidate may be considered, provided the change have been admitted by the Court of law and notified in the Government Gazette before the publication of the result.

2. Application for correction in name of Candidate's/Father's/Mother's/Guardian's name as per amended rule 69.1(ii) will be considered only within One year of the date of declaration of the result provided the application of the

candidate is duly forwarded by the Head of the Institution with required school's documents duly authenticated by the concern principal.

3. The application for correction of Date of Birth duly forwarded by the Head of the Institution along with documents mentioned in bye-laws 69.2 (iii) shall be entertained by the Board only within One year of the date of declaration of result. As per amended rule 69.2 (iv) no correction whatsoever shall be made on application submitted after the said period of One year.

4. In this connection, no further communication will be entertained by the board and for more information please visit CBSE Website-www.cbse.nic.in."

11. Thus from the above, it appears that on the ground of belated submission of application request of the petitioner has been turned down. From the documents placed on record as well as the averments made in the writ petition which is supported by an affidavit, it is seen that petitioner had submitted application before the Principal, Kendriya Vidyalaya on 29.02.2016 along with all the relevant documents, which it is stated was within 1 year of the declaration of result of Class-X by the CBSE. Principal of the Kendriya Vidyalaya however forwarded the application of the petitioner after more than 2 months on 04.05.2016. Petitioner had no control over Principal of Kendriya Vidyalaya and could not have forced him to forward the application earlier. For delay and laches on the part of the Principal of the Kendriya Vidyalaya in forwarding the application of the petitioner, rejecting the claim of the petitioner would not be justified. Moreover, publication in the State Gazette takes its own time over which petitioner had no control but nonetheless the formalities required by the CBSE under Rule 69.1 of the Examination Bye-laws have been completed. Therefore, declining to consider the prayer of the petitioner for change of name of his son does not appear to be justified.

12. 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 name of petitioner's son having been notified in the Gazette, the same cannot be ignored.

13. In view of above, impugned letter dated 20.07.2016 is set aside. Respondent Nos. 1, 2 & 3 are directed to take on board the application of the petitioner as forwarded by the Principal, Kendriya Vidyalaya on 04.05.2016 and change the name of the petitioner's son from Pinak Pani Deb to Adhish Deb in the CBSE records and certificates. This shall be done within a period of 6 (six) weeks" from the date of receipt of a certified copy of this order.

14. Writ petition is disposed of.