

(2006) 10 DEL CK 0192

In the Delhi High Court

Case No : Writ Petition (C) No. 15521 of 2006

Rashmeet Kaur Kohli

APPELLANT

Vs

Central Board of Secondary Education (CBSE)

RESPONDENT

Date of Decision : 09-10-2006

Acts Referred:

Constitution of India, 1950 — Article 226
Specific Relief Act, 1963 — Section 34

Citation : AIR 2007 Delhi 46

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Advocate : A.S. Singh, for the Appellant; Manish Singh and Amit Bansal, for the Respondent

Final Decision : Allowed

Judgement

Anil Kumar, J.—Rule.

2. With the consent of parties, the matter is taken up for final disposal. Learned Counsel for the respondent Mr. Amit Bansal states that no reply has to be filed on behalf of the respondent Central Board of Secondary Education, so the change of name shall be permitted, in case it is allowed by this Court.

3. The petitioner has sought change of her name from "Rashmeet Kohli" to "Rashmeet Kaur Kohli" in the marks-statement and other testimonials issued by the respondent.

4. The petitioner contended that she was born on 1-11-1990 and the petition is filed through her mother, her natural guardian, Smt. Amarjeet Kaur.

5. According to the petitioner, she appeared for Class-X examination conducted by Central Board of Secondary Education and an admission card was issued to her. The petitioner was declared successful in Class-X examination, Secondary Examination and thereafter a marks-statement dated 22-5-2006 was issued to her.

6. The grievance of the petitioner is that her name has been mentioned as "Rashmeet Kohli" whereas full name of the petitioner is "Rashmeet Kaur Kohli". According to the petitioner, she is entitled for correction/change of name in accordance with the examination bye-laws of Central Board of Secondary Education and she has already got the publication of her full name "Rashmeet Kaur Kohli" in the Gazette of India and a copy of the Gazette of India dated August 19, 2006 has also been filed by the petitioner. The relevant Gazette Notification stipulates as under:

I, Amarjeet Kaur wife of Late Randhir Singh Kohli, employed as Section Officer in the Ministry of Law and Justice, Department of Legal Affairs, residing at J-18, Kuti Nagar, New Delhi-110015, have changed the name of my minor daughter Rashmeet Kohli aged 15 years and she shall hereafter be known as Rashmeet Kaur Kohli.

It is certified that I have complied with other legal requirements in this connection.

7. The petitioner contended that her mother approached the respondent for change of name of petitioner. However, in accordance with the examination Bye-laws of the respondent they have insisted that the change of name has to be permitted by a Court of law. The learned Counsel for the respondent submitted that the Central Board of Secondary Education, also known as CBSE is an autonomous society which is controlled by the Secretary, Ministry of Human Resources. The CBSE is discharging the functions of conducting examination, prescribing educational courses and generally maintaining the standards of school education and advising the Government of India when called upon to do so, on matters pertaining to school education. The CBSE frames its own rules and is governed by them. The respondent has its rules and regulations regarding change of name. The relevant examination bye-laws are reproduced here for the sake of reference.

69. Change In Board's Certificate

69.1 Changes and Correction in Name

i. Correction in name means correction in spelling errors, factual errors, typographical errors in candidate's name/surname, father's name, mother's name to make it consistent with what is given in the school record.

Change in name also includes alteration, addition, deletion to make it different from the school record.

ii. Application for correction in name may be considered at any time provided that the application of the candidate is forwarded with the following document:

a. Admission form(s) filled in by the parents at the time of admission.

b. The school leaving certificate of the previous school submitted by the parents of the candidate at the time of admission.

c. Portion of the page of admission and withdrawal register of the school where the entry has been made in respect of the candidate.

iii. The Board may effect necessary correction after verification of the original records of the school and on payment of the prescribed fee.

iv. Application regarding change in name/surname, may be considered provided the changes have been permitted by a Court of law and notified in a Government Gazette. In the event of Court of Judicature allowing the change of name of a candidate, the same shall be carried out by the Board after obtaining relevant documents concerning change of name published in an Official Gazette.

8. "Name" is any word or words by which any animate or inanimate thing is known or designated. In Black's Law Dictionary "Name" is defined as under:

Name, A word or phrase indentifying or designating a person or thing and distinguishing that person or thing from others.

"Legal Name. A person's full name as recognized in law" A legal name is usually acquired at birth or through a Court order. There are no rules governing a legal name's length or constitution; it may be a single name (e.g., Prince) or include words not generally used in human names (e.g., Moon Unit).

A person is entitled for change of his/her name but in certain circumstances it can be declined. According to the learned Counsel for the respondent rule of the respondent for change of name is not exhaustive and it will be difficult to formulate an exhaustive rule for change of name. Though a person is entitled for change of his/her name, however, it should be permitted in certain circumstances and should be declined in other circumstances. For example can a person be allowed to change his/her name in the record of the respondent every month or to appear in the examinations of the respondent or to get the admission in the schools affiliated to the respondent contrary to the rules and bye-laws of the respondent. To meet such eventuality the respondent's rule contemplate that the change of name should be permitted by a Court of law. Consequently, it appears that under the examination bye-laws, the change can be permitted only if a candidate has obtained a declaration regarding change of name from the concerned Court. Why a declaratory decree for change of name is required? The learned Counsel for the respondent has contended that a decree for declaration is discretionary can be declined in certain circumstances. A decree of declaration can be passed u/s 34 of Specific Relief Act. However, grant of decree of declaration is the discretion of the Court and can be declined in certain circumstances. Take a case where a person seeks to change his/her name very frequently or wants change of name to circumvent the rules and bye-laws of the respondent and if such a person is allowed change of name, it may lead to violation of rules and bye-laws and other complications. In such and similar circumstances, a decree for declaration which is discretionary can be declined by a Court. With this objective the rule of the respondent for change of name contemplates, a declaration from the competent Court, as the Court can decline/

grant a decree for declaration In certain circumstances as it Is a discretionary relief, as contemplated under the Specific Relief Act.

9. The learned Counsel for the petitioner also contended that change of name has been permitted by this Court In exercise of its jurisdiction under Article 226 of the Constitution of India and consequently, in the case of petitioner, the change of names can be permitted. The petitioner is only seeking to Incorporate a middle name "Kaur" and it is for the first time she has applied for the change of name. The change of name claimed by the petitioner is not contrary to any other rules and bye-laws of the respondent nor any other fact has been brought to my notice which will disentitle the petitioner seeking change of her name.

10. Considering the facts and circumstances, it is apparent that the name of the petitioner has already been recorded In the record of Central Board of Secondary Education as "Rashmeet Kohli". By change of name, she wants to incorporate the middle name "Kaur" as the name of the mother of the petitioner is Amarjeet Kaur. In the circumstances, it is apparent that the petitioner is not trying to change her name for any extraneous reasons. There does not seem to be any other impediment in allowing the change of name to the petitioner nor the counsel for the respondent has pointed out any facts which will disentitle the petitioner from change of her name. In the facts and circumstances, it shall be appropriate to allow the petitioner to change her name from "Rashmeet Kohli" to "Rashmeet Kaur Kohli". The petitioner has complied with the other requirements of the examination bye-laws of Central Board of Secondary Education. The notice about the change of name has been notified by the petitioner in a Government Gazette, a copy of which has also been produced by the petitioner.

11. For the aforesaid reasons, the writ petition is allowed. The respondent is directed to change the name of the petitioner from "Rashmeet Kohli" to "Rashmeet Kaur Kohli" in its record. For carrying out the change of name of the petitioner on marks-sheet and other documents, the petitioner shall return the mark-sheet and other documents on which endorsement shall be made regarding change of name of the petitioner by the respondent within four weeks of surrender of the mark-sheet and other documents or by issuance of new mark-sheets or documents In the changed name as may be deemed appropriate by the respondent in the facts and circumstances. The writ petition is allowed with these directions, however considering the facts and circumstances the parties are left to bear their own costs.