

(2020) 11 DEL CK 0032

In the Delhi High Court

Case No : Civil Writ Petition No. 6813 Of 2020, Civil Miscellaneous Application
No. 23586, 26340 Of 2020

Rayaan Chawla

APPELLANT

Vs

University Of Delhi & Anr

RESPONDENT

Date of Decision : 06-11-2020

Acts Referred:

Constitution Of India, 1950 — Article 19(1)(a), 19(2), 21

Citation : (2020) 11 DEL CK 0032

Hon'ble Judges : Jayant Nath, J

Bench : Single Bench

Advocate : Ankur Mahindro, Sanjoli Mehrotra, Rohan Taneja, Mohinder J.S.
Rupal, Hardik Rupal, Rajeev Sharma, Aditya Sharma

Final Decision : Disposed Of

Judgement

Jayant Nath, J

1. This writ petition is filed by the petitioner seeking quashing of the notification issued by respondent No.1/University of Delhi in so far as it makes it

mandatory for a student to obtain change of name in the records of the Central Board of Secondary Education (hereinafter referred to as the

â??CBSEâ??) as a prerequisite for change of name in the records of respondent No.1/University of Delhi. Change is also sought in the name of the

petitioner in the records of respondent No.1/University of Delhi.

2. The case of the petitioner is that he is 20 years of age and is currently pursuing B.A.(Hons.) Philosophy at Hindu College affiliated to respondent

No.1. The petitioner is in his 3rd Year of the course. The petitioner was born on 30.06.2000 and was named â??Rayaan Singhâ?? by his parents,

namely Ms.Payal Chawla and Mr.Mandeep Singh. The petitioner passed out from

Modern School, Barakhambha Road, New Delhi, which is affiliated to CBSE, with the name 'Rayaan Singh', which is the name on which certificates are issued by CBSE for 10th and 12th Class. He then joined Hindu College in B.A.(Hons.) Philosophy affiliated with respondent No.1/University of Delhi as Rayaan Singh.

3. The parents of the petitioner had a strained relationship. It is stated that the petitioner never enjoyed any form of constructive relationship with his

father and was raised by his mother Ms.Payal Chawla and maternal grandparents. The parents of the petitioner separated in 2007 and obtained a final

decree of divorce on 15.09.2015. Since 2007 the petitioner was in sole custody of his mother till the time he attained majority. The father of the

petitioner gave up the natural guardianship and sole custody of the petitioner on 03.04.2007 in Guardianship Petition No.86/2007. In view of the above,

it is stated that the petitioner wants to change his name as Rayaan Chawla.

4. The petitioner published a declaration in two leading national dailies, namely, Indian Express and Jansatta on 24.10.2019 declaring that he had

changed his name to Rayaan Chawla for all purposes. He has also affected a notice under the Gazette of India dated 07.03.2020 declaring that he had

changed his name to Rayaan Chawla. He also applied for the name change in his Aadhar Card, which was amended from 19.03.2020. The same was

issued in July, 2020. It is stated that the petitioner also requested respondent No.1 for change of name. He was informed that he has to comply with

the notification dated 01.07.2015. On 19.08.2020, the petitioner submitted all the requisite documents in compliance with the aforesaid notification. On

09.09.2020, the application was returned with the noting 'Required 10th and 12th Class Certificates after change name'. The petitioner states that

the petitioner was informed by respondent No.1's officials that as per the impugned notification, it is mandatory for the students desirous of

seeking change of name to get their name changed from CBSE/other State Boards first. It is stated that CBSE also states that application for change

in name would be considered only before publication of result of the candidate. Hence, the present writ petition.

5. Respondent No.1/University of Delhi has filed its counter affidavit. It has been stated that respondent No.1/University of Delhi has framed a policy

for change of name of its students which has been approved by the Executive Council. The Executive Council is a Statutory Body and its resolutions

have the force of law. The resolutions of the Executive Council are passed after much deliberation as per the opinion of experts in the field. It is

stated that as per the resolution of Executive Council for change of name, the applicant has to fulfil the following requirements:

â??a) Application for change of name will be entertained only when the applicant is a student of University of Delhi at the time of applying for

change of name.

Application for change of name from a person who is not a student of the University at the time of submission of application or who has already

completed his/her course of study shall not be considered.

b) To get his/her name changed from CBSE/State Boards/other related Boards first.

c) Original Copy of the Government of India Gazette Notification about the change of name.

d) Newspaper cutting (in Originals) as proof of the advertisement published with regard to change of name in at least two leading Indian daily

newspaper.â??

6. It is pleaded that the parents of the petitioner got divorced in 2015. The petitioner has stayed in the sole custody of his mother since long and has

continued to use the name Rayaana Singh. He appeared in 10th and 12th Class examinations with the said name. He has joined the University of Delhi

with the said name and thus he was then fully aware of the resolution of the Executive Council passed in 2015 which is mandatory for the student

seeking change of name. The petitioner or his mother could have easily taken all steps for proposed change of name before he appeared in 10th and

12 Class Board Examinations. He has however not taken any steps at that stage and cannot now be allowed to impugn the resolution of Executive

Council. It is also pleaded that the petitioner cannot have two different names i.e. Rayaana Singh for 10th and 12 Class Certificates and Rayaana

Chawla for the graduation degree. The University of Delhi has put this condition so as to maintain continuity and uniformity in the educational

credentials of a student. It is stated that the said resolution of the Executive Council has been upheld by this court in the case of Tarachand Soni v.

University of Delhi, W.P.(C) 1694/2019, decided on 01.11.2019. It is reiterated that the name change can take place only if the petitioner's name is changed first in the records of CBSE.

7. I have heard learned counsel for the parties.

8. Learned counsel for the petitioner has strongly relied upon judgment of the Division Bench of this court in the case of Jigya Yadav v.

CBSE, MANU/DE/3700/2010, to plead that the Division Bench has clearly held that the change of name can only take place with effect from

the date when the name is changed and not from a backdate. It is pleaded that the stand of respondent No.1/University of Delhi of insisting that the

change of name be done in the CBSE records tantamounts to doing the impossible task, namely, changing the name in the record of CBSE when at

that time when the petitioner took the CBSE exams the name of the petitioner was Rayaan Singh. The change of name has now taken place

only in August/September, 2019. When the petitioner passed out from 10th and 12th Class the name of the petitioner was Rayaan Singh and hence the

same obviously cannot be changed to Rayaan Chawla on the certificates of Class 10th and 12th. Respondent No.1's stand, it is pleaded, is entirely

erroneous. Reliance is also placed on the judgment of this court in the case of Rohitash Institute of Elementary Education v. National Council for

Teacher Education, 2019 SCC OnLine Del 7532 to plead that the petitioner cannot be required to perform the impossible inasmuch as no law would

require the same. Reliance is placed on the maxim Lex non cogit ad impossibilia.

9. Learned counsel for respondent No.1/University of Delhi has however, strongly urged that there is a delay on the part of the petitioner in taking

steps to change his name. As per the petitioner himself, the parents of the petitioner were separated in 2007 and the petitioner has now chosen to seek

change of name. This could easily have been done while the petitioner was studying in Class 10th and Class 12th. At that stage, CBSE could carry out

necessary change. Reliance is placed on the judgment of the Division Bench of this court in the case of Jigya Yadav v. CBSE(supra). Reliance is also

placed on the judgment of a Co-ordinate Bench of this court in the case of Tarachand Soni v. University of Delhi(supra).

10. I may look at the relevant notification of respondent No.1/University of Delhi.

The writ petition reproduces the notification dated 01.07.2015 of respondent No.1, which reads as follows:

??Notification

In supersession of the previous rules, the following procedure for change of name of students duly approved by the Executive Council, vide Resolution

No. 16 dated 28.05.2015, is hereby notified for necessary compliance by all concerned:-

Student (male/female/others) who wishes to change his/her name for any reason is required to submit the following documents.

1. An application, mentioning the enrolment number of the student duly forwarded by the Principal of the College/Head of the institution alongwith Rs.

500/- as application fee.

2. Newspaper cuttings (in original) as proof of the advertisement published with regard to change of name in at least two Indian leading daily newspapers.

3. Self-Declaration on the prescribed format by the Applicant.

4. Original copy of the Government of India Gazette Notification about the change of name.

5. Self-declaration by the applicant regarding change of his or her name.

OR

Submission of the matriculation or its equivalent certificate in case the student has got his/her name changed in the said certificate while studying in the University of Delhi.

OR

Proof of marriage i.e. a self- attested copy of marriage registration certificate issued by the competent authority in case of female students applying for change of surname due to marriage.

1. Application for change of name will be entertained only when the applicant is a student of University of Delhi at the time of applying for change of name. Application for change of name from a person who is not a student of the University at the time of submission of application or who has already completed his/her course of study shall not be considered.

2. The process of change of name may require at least 2 weeks?? time after

submission of application.

3. Application of students of any class for change of name shall be accepted only after 30th September.

4. Any change in name / surname will be effective only after its approval by the University.

5. The name after change will be read as changed name alias / nee earlier name.

After receipt of such requests from the college/Departments, these will be examined by the University and processed for consideration in accordance

with the University rules. The Principals of the Colleges/ Heads of the Departments may kindly ensure that the above procedure is strictly followed.â??

11. Thereafter, it is stated in the writ petition that there has been an amendment in the said notification dated 01.07.2015 and a notification dated

16.12.2015 has been issued, which reads as follows:

â??An addendum to this office Notification No.Aca-II/Change of Name/279/2015/03 dated 01-07-2015 regarding procedure for change of name, it is

hereby notified that it is mandatory, for the students seeking change of name to get his/her name changed from CBSE/State Boards/other related

Boards first. The other conditions contained in said notification remain the same.â??

12. What is important to note is that the change of name is entertained by respondent No.1/University of Delhi only if the student is a student of the

University of Delhi at the time of applying for change of name. The amendment clarifies that it mandatory, for students seeking change of name to get

their name changed from CBSE/State Boards/other related Boards first. Undoubtedly, the petitioner is a student of University of Delhi. However, the

petitioner objects to the demand of having his name changed in the appropriate records pertaining to CBSE i.e. Class 10th and Class 12th Certificates.

It has been pleaded that the petitioner has decided to change his name in August/September, 2019 when he had already passed out from CBSE. On

the same analogy as prescribed by the University of Delhi, the CBSE would obviously not change names now after the petitioner has already passed

out. Respondent No.1/University of Delhi, it has been pleaded, seeks the petitioner to do an impossible task.

13. On the right of a man to his name, I may look at a judgment of the Kerala

High Court in the case of Kailash Gupta v. CBSE, 2020 SCC OnLine

Ker 1590. That was also a case where the petitioner had sought to change her name. In those facts, the court held as follows:

1. Four centuries ago, when William Shakespeare wrote the Classic *Romeo and Juliet*, he felt that name did not matter much. In the

present times, if one is asked the same question *What's in a name*, the answer would be:

It's everything.

1.1 In this writ petition, this Court is confronted with an instance where a young girl, who wished for a change of name, stumbled upon an obstacle in the form of CBSE who turned down her request for incorporating the change of name on a hyper technicality.

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8. Name is something very personal to an individual. Name is an expression of one's individuality, one's identity and one's uniqueness. Name is the

manner in which an individual expresses himself to the world at large. It is the foundation on which he moves around in a civil society. In a

democracy, free expression of one's name in the manner he prefers is a facet of individual right. In Our Country, to have a name and to express the

same in the manner he wishes, is certainly a part of right to freedom of speech and expression under Article 19 (1) (a) as well as a part of the right to

liberty under Article 21 of the Constitution of India. State or its instrumentalities cannot stand in the way of use of any name preferred by an individual

or for any change of name into one of his choice except to the extent prescribed under Article 19(2) or by a law which is just, fair and reasonable.

Subject to the limited grounds of control and regulation of fraudulent or criminal activities or other valid causes, a bonafide claim for change of name in

the records maintained by the Authorities ought to be allowed without hesitation.

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12. Power of interpretation available to this Court to correct errors committed by the draftsman is quite wide. When the language of a statute in its

ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment or to some inconvenience

or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words and even the

structure of the sentence. The above mentioned principle has been restated in the decisions in *Pentiah v. Mudalla Veeramallappa*, (AIR 1961 SC 1107), *Eera v. State (Govt. of NCT of Delhi)*, (2017) 15 SCC 133), and also by a Full Bench of this Court in *Viswambaran P.N. v. T.P. Sanu*, ((2018) 2 KLT 947).

14. Hence, the aforesaid judgment has clearly stated that to have a name and to express the same in the manner he wishes, is a part of the right to freedom of speech and expression under Article 19 (1) (a) as well as right to liberty under Article 21 of the Constitution of India. It cannot be denied that the right to change a name is a protected right and the petitioner would normally be not denied the said right on technical issues.

15. In the present facts reference may also be had to the judgment of the Division Bench of this court in the case of *Abhishek Kumar v. Union of India & Ors.*, 2014 SCC OnLine Del 3459, which was also dealing with a case of change of name. However, that was a case in which the petitioner therein sought to change his name after he had passed out of CBSE/School. It was in those facts, the Division Bench held as follows:

10. Else, we are of the opinion that the issuance of revised certificates with changed name as sought by the petitioner would create a discrepancy and reflect a status which did not exist at the time of issuance thereof. The petitioner though has changed his name, but after the date of issuance of the said certificates. Axiomatically the certificates cannot bear the changed name. If anyone were to make a deeper inquiry, they will wonder that if the name was changed only in 2011, how the changed name appears on certificates issued on a prior date. Rather the procedure of having a Gazette Notification for changed name is intended to obviate the said difficulties and to give sanctity to the change in name. The said view was taken by one of us (Rajiv Sahai Endlaw, J.) in *Pallavi @ Pallavi Chandra v. C.B.S.E.* MANU/DE/2842/2010 and in order dated 9th November, 2010 in W.P.(C) No. 4044/2010 titled *Ashik Gurung v. CBSE* and which matters are not found to have been agitated further. We see no reason to take a different view.

16. Hence, the Division Bench was of the view that the issuance of revised certificates with changed name as sought by the petitioner therein would create a discrepancy and reflect a status which did not exist at the time of

issuance of the certificates thereof (i.e. school leaving certificates).

17. Based on the above, it is clear that there is merit in the contention of the petitioner that the demand by respondent No.1/University of Delhi to first

get the name changed in the records of CBSE/Certificates issued by CBSE is a misplaced demand. The petitioner has changed his name in 2019. He

has passed out from CBSE in 2018. Obviously, the change of name cannot be with retrospective effect. On the date the petitioner cleared the CBSE

exams, his name was Rayaana Singh i.e. his original name. The certificates of that date have to convey the name of the petitioner as it existed then and

not the new name.

18. In this context reference may also be had to the judgment of the Co-ordinate Bench of this court in the case of Rohitash Institute of Elementary

Education v. National Council for Teacher Education(supra). Relevant portion of the same reads as follows:

“45. A reading of the aforesaid provisions of the 1963 Act discloses that the requirement of obtaining permission for use of land, for purposes other

than those for which it was used on the date of publication of the notification under Section 4(1) of the said Act, i.e. for a CLU certificate, is to be

obtained only in respect of land which was within the controlled area. The communication dated 23 April, 2008, the correctness of which has not been

called into question by any of the authorities, or even in the counter affidavit filed in response to the writ petition in the present case, clearly states that

the land, in which the petitioner's institution was situated, was located in an urban area and not in any controlled area as declared by the Town and

Country Planning Department. Applying Section 7 of the 1963 Act, therefore, the said communication dated 23rd April, 2008 would, in my view,

satisfy the requirement of a CLU certificate. Indeed, given the proscriptions contained in the 1963 Act, it was well impossible for the petitioner to

obtain any other CLU certificate, as any such certificate, if issued, would be in the teeth of the provisions of the said Act. Needless to say, the

provisions of the 2014 Regulations can hardly be so interpreted as to require an applicant to produce a document which was not in consonance with

the applicable statutory prescriptions. Insistence on production of the said certificate being produced by the petitioner would, be requiring him to

perform the impossible, which, it is trite, no law could require “Lex non cogit

ad impossibiliaâ??.

19. The above judgment would apply to the facts of the present case inasmuch as the requirement of University of Delhi to first seek amendment in

the name in the record of CBSE/Documents issued by CBSE is an impossible act. When CBSE issued the documents, the petitioner had the original

name â??Rayaan Singhâ?. The same cannot be changed now as in 2018 when the petitioner completed his Class 12th he was known as â??Rayaan

Singhâ?. The law would not require the petitioner to perform the impossible. The insistence of respondent No.1 to first get the name changed in the

records of CBSE is a misplaced requirement and cannot be accepted.

20. I may now deal with the judgments relied upon by the learned counsel for respondent No.1/University of Delhi.

21. Heavy reliance was placed by the learned counsel for respondent No.1/University of Delhi on the judgment of a Co-ordinate Bench of this court in

the case of Tarachand Soni v. University of Delhi(supra). That was a case where the petitioner sought to challenge the said resolution dated

10.12.2015 as it was coming in the way of change of name of the petitioner. The facts of that case were that the petitioner was then not a student of

University of Delhi and further there was no change of name also effected in the records of the concerned State Board. In those facts, this court had

dismissed the writ petition. The said judgment has no application to the facts of this case.

22. Heavy reliance was also placed on the case of Jigya Yadav v. CBSE(supra). In that case, the petitioner sought to challenge Constitutional validity

of Bye-Law 69.1(i) of the CBSE Education Examination Bye-Laws on the ground that they did not permit correction in name either of the candidate

or his/her parents in the school certificates unless the correction or alteration matches with school records. Relevant portion of the judgment reads as

follows:

â??20. The test laid down in Kruse Vs. Johnson (supra) has been adopted by the Indian Supreme Court in the case of H.C. Suman & Anr. Vs.

Rehabilitation Ministry Employees' Cooperative House Building Society Ltd., New Delhi & Ors,. (1991) 4 SCC 485 at page 499 wherein it has been

held as under:-

In Kruse v. Johnson it was held that in determining the validity of bye-laws made

by public representative bodies, such as country councils, the court ought to be slow to hold that a bye-law is void for unreasonableness. A bye-law so made ought to be supported unless it is manifestly partial and unequal in its operation between different classes, or unjust, or made in bad faith, or clearly involving an unjustifiable interference with the liberty of those subject to it. In view of this legal position the Notification dated October 27, 1987 deserves to be upheld as, in our opinion, it does not fall within any of the exceptions referred to in the case of *Kruse v. Johnson*.
(emphasis supplied)â??

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22. Moreover, we are of the view that the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to take a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice - as contended by the respondent no. 1 in its counter affidavit.â??

The above judgment would apply only if this court were to strike down any of the statutory provisions.

23. The legal position that would follow from the above conspectus of the judgments noted and cited by the learned counsel for the parties is that normally a person would have a right to have his name changed subject to fulfilment of appropriate formalities/procedures to ensure that there is no misuse or confusion created on account of the change in name. The change of name is prospective. As noted above, in my opinion, the insistence of respondent No.1/University of Delhi to interpret the appropriate Resolution of the Executive Council/Notification dated 01.07.2015 read with 16.12.2015 to insist that though the name is being changed in 2019, the

petitioner must first get the certificates issued by CBSE in 2018 i.e. prior to the change of name also changed appears to be a misplaced interpretation of the said provision. The petitioner cannot be asked to do the impossible as the names as reflected in the Class 10th and 12th certificates cannot be changed as there is no change of name retrospectively. A meaningful interpretation has to be given to the aforesaid Notifications dated 01.07.2015 and 16.12.2015/Resolution of respondent No.1 so that it does not seek or does not direct the petitioner to perform an impossible task.

24. In my opinion, as the change of name is with effect from August/September, 2019 i.e. much after the Class 10th and 12th certificates issued by CBSE, respondent No.1 cannot in these peculiar facts and circumstances insist that the petitioner should also get his name changed in the records of CBSE/in the Class 10th and 12th certificates. It is ordered accordingly.

25. There is one more aspect that may arise in the facts of this case. If respondent No.1/ University of Delhi was to change the name in their record and in the degree to be given to the petitioner as Rayaana Chawla, it would create some confusion inasmuch the CBSE certificates/records, would show the name of Rayaana Singh, i.e. the former name of the petitioner. In these facts and circumstances, the answer lies in the resolution dated 01.07.2015. The same provides that on change of name it would be stated as 'changed name alias/nee earlier name'. It would be appropriate that respondent No.1/University of Delhi may change the name of the petitioner in their records/in the degree that may be given in future to the petitioner as above. Such a course of action would avoid any confusion in the two names, which would be seen on the records of CBSE and of University of Delhi/appropriate documents issued by the said entities.

26. In the facts and circumstances, it is accordingly directed that respondent No.1/University of Delhi may change the name of the petitioner in their records accordingly as noted above.

27. With the above directions, the present petition stands disposed of.