

(2011) 10 GAU CK 0015
In the Gauhati High Court
Case No : Writ Petition (C) No. 175 of 2011

Sri Khanindra Deka

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 31-10-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 1 GLD 299

Hon'ble Judges : Iqbal Ahmed Ansari, J

Bench : Single Bench

Advocate : D.A. Kayum, for the Appellant; G. Sinha, CGC, for the Respondent

Final Decision : Dismissed

Judgement

I.A. Ansari, J.—Ignorance of the Bye-laws of the Central Board of Secondary Examination (in short, "the CBSE") has made the petitioner bring his grievances, unfounded in law, to this Court by way of present writ application made under Article 226 of the Constitution of India. The admitted facts of the present case are a clear picture of the ground, which makes the present writ petition not tenable in law. These facts are, in brief, thus : the petitioner's son, Gauranga Deka, is a student of Class X in Srimanta Shankar Academy, who will appear in Class X examination in 2011. The petitioner's son's name, in his academic record, stands recorded as Gauranga Deka. As the petitioner intended to change his son's name to Shreyom Deka, in place of Gauranga Deka, he made an application to the Department of Health and Family Welfare, Govt. of Assam, for issuance of a birth certificate in the name of Shreyom Deka. Accepting the request of the petitioner, a birth certificate was issued showing the petitioner's son's name as Shreyom Deka. Based on this certificate, the petitioner applied to the respondents authorities concerned of the CBSE to change the name of his son in the record of the CBSE. This request was not acceded to by the CBSE. Aggrieved by the decision of the CBSE not to allow the change of name of the petitioner from Gauranga Deka in academic records on the basis of the new birth

certificate aforementioned, the petitioner has filed this writ petition, under Article 226 of the Constitution of India, seeking issuance of appropriate directions to the respondents. I have heard Mr. D.A. Kayum, learned counsel, for the petitioner, and Ms. G. Sinha, learned CGC, for the respondents.

2. While considering the present writ petition, it needs to be noted that the provisions, for changes or correction in the name of a person in the academic records, stand incorporated in the CBSE's Bye-law No. 69.1(IV) of Examination Bye-Laws, 1995, which are reproduced below:

Changes and Corrections in Name:

(ii) ***

(ii) ***

(iii) ***

(iv) Applications regarding change in name/surname will be considered where such 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.

3. From a bare reading of what Bye-law 69.1(IV) contains, it becomes abundantly-clear that the conditions precedent for making application to get the name or surname changed, in the CBSE records, is that there must be an order passed, in this regard, by a Court of law and notified in a Government gazette. Logically, therefore, when a person, such as the petitioner, wants to get his son's name changed in the academic record of the school, which is managed under the CBSE control, his remedy lies in making appropriate application, in the Civil Court, for allowing such a change as the petitioner seeks and, if the Court allows such a change, the order of the Court has to be notified in a Government Gazette. After the order of the Court stands notified in a Government Gazette, the application for making change in the name or surname of a student or a candidate, as the case may be can be made by him if he is major or by his guardian if the student or the candidate concerned is a minor. What the CBSE Bye-laws, thus, provide is that it makes the CBSE carry out the directions of the Court made public by a notification published in an official gazette.

4. In the case at hand, the petitioner has admittedly, not got any order from the Civil Court allowing change of his son's name or giving a declaration that the petitioner's son shall stand known as Shreyom Deka in place of Gauranga Deka. In the absence of this fundamental condition precedent having not been satisfied by the petitioner, the petitioner could not have insisted upon his request that his son's name be changed from Gauranga Deka to Shreyom Deka. As the petitioner and/or his son has not satisfied the requirement of Bye-law 69.1(IV), refusal by the respondents cannot be said to be illegal. This writ petition, therefore, does not warrant any intervention by this Court, by invoking this Court's powers

under Article 226 of the Constitution, with the CBSE's impugned decision.

5. In the result and for the reasons discussed above, this writ petition fails and the same shall accordingly stand dismissed. No order as to costs.