

(2022) 03 SHI CK 0075
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 7304 Of 2021

Varun Kaushal

APPELLANT

Vs

Central Board Of Secondary Education Through Its Regional
Officer And Others

RESPONDENT

Date of Decision : 23-03-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 03 SHI CK 0075

Hon'ble Judges : Sabina, J; Satyen Vaidya, J

Bench : Division Bench

Advocate : Sudhir Thakur, Karun Negi, Rita Goswami, Ranjan Sharma

Final Decision : Disposed Of

Judgement

Sabina, J

1. Petitioner has filed this petition under Article 226 of the Constitution of India, seeking following relief:-

"i) To issue the writ of mandamus or the writ in the nature of mandamus directing respondents to make necessary corrections in the father's name of the petitioner to be Gopal Sawroop Kaushal instead of Gopal Swaroop Kaushal as entered in the migration certificate and Gopal Kaushal as entered in the other certificates.

ii) To issue the writ of mandamus or the writ in the nature of mandamus directing respondents to make corrections in a time bound manner in all the certificates of 10th and 10+2 class certificates including the migration certificate of the petitioner.

iii) To issue the writ of mandamus or the writ in the nature of mandamus directing respondents to pay damages to the petitioner."

2. Learned counsel for the petitioner has submitted that the petitioner has

passed 10+2 examination, conducted by respondent No.2 in the year 2018. However, at the time of admission of the petitioner, his father's name was recorded/ entered as 'Gopal Kaushal', whereas in other records, name of father of the petitioner was entered as 'Gopal Sawroop Kaushal'. By mistake, while making entry in 10+2 examination record, the full name of the father of the petitioner was not recorded. Petitioner had approached respondent No.2 for redressal of his grievance and the school had sent the recommendation to respondent No.1 vide Annexure P-3 for making necessary corrections. Petitioner had also deposited the requisite fees, however, necessary correction has not been made by respondent No.1 in the record maintained by it.

2. In support of his arguments, the learned counsel for the petitioner has placed reliance to the judgment of the Hon'ble Supreme Court, reported in (2021) 7 Supreme Court Cases 535, titled as Jigya Yadav vs. Central Board of Secondary Education and others, wherein in paragraph 194.1, the Hon'ble Supreme Court has held as under:-

"Reverting to the first category, as noted earlier, there is a legal presumption in relation to the public documents as envisaged in the 1872 Act. Such public documents, therefore, cannot be ignored by the CBSE. Taking note of those documents, the CBSE may entertain the request for recording change in the certificate issued by it. This, however, need not be unconditional, but subject to certain reasonable conditions to be fulfilled by the applicant as may be prescribed by the CBSE, such as, of furnishing sworn affidavit containing declaration and to indemnify the CBSE and upon payment of prescribed fees in lieu of administrative expenses. The CBSE may also insist for issuing public notice and publication in the Official Gazette before recording the change in the fresh certificate to be issued by it upon surrender/return of the original certificate (or duplicate original certificate, as the same may be) by the applicant. The fresh certificate may contain disclaimer and caption/ annotation against the original entry (except in respect of change of name effected in exercise of right to be forgotten) indicating the date on which change has been recorded and the basis thereof. In other words, the fresh certificate may retain original particulars while recording the change along with caption/annotation referred to above (except in respect of change of name effected in exercise of right to be forgotten)."

3. Ms. Rita Goswami, learned counsel for respondent-Board has fairly submitted that in terms of the decision given by the Hon'ble Supreme Court in Jigya Yadav's case (supra), in case necessary documents are supplied by the petitioner, the relevant correction would be made in the record by respondent No.1.

4. Learned counsel for the petitioner in response to the submission made by learned counsel for respondent No.1 has submitted that the needful has already been done by the petitioner, as the relevant documents sought by the Board have already been supplied.

5. Accordingly, without adverting to the merits of the case, the writ petition is

disposed of with a direction that in case necessary formalities have not been completed by the petitioner so far, the respondents shall do the needful/make necessary correction in the certificates of the petitioner within three weeks on completion of all the necessary formalities by the petitioner.

Pending application(s), if any, also stand disposed of.