

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 21.11.2013

+ WP(C) No.24753-54/2005

NAVEE @ NAVEEN DOGRA & OTHER Petitioner

Through: None.

versus

CBSE Respondent

Through: Mr Atul Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

Petitioner No.1 appeared in Delhi Senior Secondary Examination conducted by CBSE in the year 2000 and Delhi Senior School Certificate Examination held by the said Board in the year 2002. In the certificates issued to him by CBSE, the name of petitioner No. 1 was recorded as Naveen Dogroa, son of Matwar Dogra. The petitioners gave public notice in newspapers on 30.09.2005, changing the name of petitioner No. 1 from Naveen Dogra to Naveen and the name of petitioner No.2 from Matwar Dogra to Matwar Singh. A declaration in the Gazette of India, Part-IV (Advertisements and Notices issued by

Private Individuals and Private Bodies) dated October 29-Novemembr 4, 2005, was also published to the aforesaid effect. Vide letter dated 14.12.2005 received by CBSE on 15.12.2005, petitioner No. 1 sought change of his name in the record of CBSE from Naveen Dogra to Naveen with name of his father as Matwar Singh. Immediately thereafter, he filed this writ petition on 17.12.2005 seeking a direction to CBSE to change the name of petitioner No.1 from Naveen Dogra to Naveen and the petitioner No.2 from Matwar Dogra to Matwar Singh, along with further direction to issue certificates, as per the changed name of petitioner No. 1.

2. In its counter-affidavit, respondent-CBSE claimed that a writ petition for change of name of the petitioner without their first complying with the requirements of Examination Byelaws of the Board is not maintainable. It is further stated in the counter-affidavit that under the relevant Examination Byelaws, the change in the name has to be first admitted in the Court of law and thereafter published in a Gazette, before a request can be made to CBSE for change of the name.

3. Byelaw 69.1 of the Examination Byelaws of CBSE reads as under:-

“69.1 Changes and Corrections 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 records.

(ii) Application for correction in name/surname will be considered only within two years of the date of declaration of result 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 corrections after verification of the Original records of the school and on payment of the prescribed fee.

(iv) Applications 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.”

Mr Atul Kumar, who appears for CBSE, states that the aforesaid byelaw has since been amended and the requirement under the new byelaw is that change of name is to be made first in the record of the schools in which the candidates had studied and only thereafter it can be allowed by CBSE in its record.

4. A perusal of the above extracted byelaw would show that as far as correction in the name is concerned, the same can be allowed only if the name in the record of CBSE is different from the name in the record of the concerned school. This can be allowed only within a period of two years from the date of declaration of the result and the request in this regard to be submitted with admission form, school leaving certificate and portions of the relevant page of admission and withdrawal register of the school of the applicant. As regards change of name/surname, the byelaw requires the applicant to submit an order from a Court of law and notification in a Government Gazette before change in the record of CBSE can be allowed. In my view, the requirement to submit an order from a Court of law permitting change in the name is wholly unjustified and in fact impossible to comply since a Court of law does not intervene

in a matter of change of name, unless someone questions such change of name. In case it is assumed that under the Byelaw, the person seeking change of name in the record of CBSE is to bring an order from a Civil Court, no such order can be obtained since there will be no defendant if a civil suit is to be filed by the applicant. A civil suit for declaration can be filed only if someone is denying or disputing the changed name of the applicant. It appears that requirement of submitting an order from a Court of law has been incorporated in the byelaw, without appreciating this aspect of the matter and without realizing that in the absence of a lis, no order can be passed by a Court with respect to change of the name of a person. The byelaw 69.1 of Examination Byelaws, to the extent it requires the applicant to submit a Court order permitting change of his name being faulty, therefore, needs to be ignored from consideration. The only requirement which then remains is notification of the declaration of change of name in the Official Gazette. The petitioners before this Court have published a declaration in a newspaper with respect to change of the name of petitioner No. 1 from Naveen Dogra to Naveen and that of petitioner No. 2 from Matwar Dograt to Matwar. The aforesaid declaration has also been published in the Gazette Notification dated 30.09.2005. The respondent-CBSE,

therefore, is directed to change the name of petitioner No.1 in its record as Naveen, son of Matwar Dingh and issue fresh/corrected certificates of Delhi Senior Secondary Examination, 2000 and Delhi Senior School Certificate Examination, 2002, after petitioner No.1 submits the original certificates to CBSE and deposits the requisite charges in this regard. The aforesaid direction shall be complied with within four weeks of petitioner No.1, surrendering the original certificate. No order in respect of petitioner No. 2 is required since he did not appear in the examination conducted by CBSE. However, change in his name would be necessary considering that the name of the father of petitioner No. 1 has been incorporated in the certificates issued to him by CBSE and in the absence of change in the name of the father, there may be confusion in future as to how the surname Dogra does not find mention in the name of petitioner No. 1, though it is mentioned in the name of his father.

The writ petition stands disposed of in terms of the aforesaid direction.

No order as to costs.

NOVEMBER 21, 2013
BG

V.K. JAIN, J.