

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on : 20.02.2025.

Pronounced on: 27.02.2025

WP(C) No. 1191/2024

CM No. 3041/2024

**Prince Kumar Age-16 years (Minor)
S/O Sh. Babu Ram,
Through Adoptee Father
Babu Ram Age 65 years
S/O Sh. Puran Chand
R/O Village Allah
Tehsil Arnia, District Jammu-181131**

.....Petitioner(s)

Through: Mr. Pawan K Kundal, Advocate.

Vs

**J&K Board of School Education
Through Secretary
Rehari Colony, Jammu-180005.**

..... Respondent(s)

Through: Mr. B.S. Bali, Advocate.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

01. The present petition has been filed by the petitioner through one Babu Ram, claiming him to be his adoptee father, under Article 226 of the Constitution of India, seeking direction to the respondent to change his parentage from natural parents to adoptee father and mother in its record and issue fresh registration

certificate, marks card of 10th, 11th and 12th class, indicating parents name of his adoptee parents.

02. With a view to understand the controversy in its correct perspective, it is deemed appropriate to give the material facts in brief:

2.1 That the petitioner was adopted by Babu Ram and his wife Kanta Devi from the natural parents of the petitioner who have voluntarily and out of free will gave their consent to give petitioner in adoption and handing over/taking over ceremony was also duly performed; that after the adoption, the petitioner used to live with the adoptee parents, who got him admitted in school from childhood; that after the adoption of the petitioner was executed, the adoptee father executed Will Deed in favour of the petitioner of his all moveable and immovable properties including land measuring 08 kanals 08 marlas under khasra Nos. 140, 135, 136, 264 and 267 situated at Village Karyal Kalan and village Allah, Tehsil Arnia, District Jammu and one shop raised in khasra No. 590 at village Allah Tehsil Arnia. An Adoption Deed, to this effect, was duly registered before Sub Registrar, Jammu South-I on 21st day of December, 2021 at Bishnah between the natural parents and adoptee parents.

2.2 It is further stated in the petition that the petitioner also obtained caste certificate and domicile certificate from the jurisdictional Tehsildar at Arnia in which name of the father of the petitioner has been shown as Babu Ram. The petitioner has also obtained pan card and aadhar card in which also the name of the father of the petitioner has been shown as Babu Ram; that the petitioner had studied in Kundan Shiksha Academy, Allah from Ist to 5th Class, Janta Memorial School, Adhlehar in 6th class, in Alpha Mission School, Allah in 7th Class and 11th Class from Government Higher Secondary School, Allah; that the adoptee father of the petitioner approached the schools for the change of the petitioner's parentage from natural parents to adoptee parents but the incharge school informed him that since the details/particulars have been sent to the J&K Board of School Education, Jammu in 9th and his all registration records are maintained accordingly by the respondent and the petitioner has to approach the respondent-Board of School Education.

2.3 It is urged in the petition that when the petitioner approached the respondent-Board for change of the name of parentage from natural parents to adoptee parents, the respondent-Board informed the petitioner that they will

not change the name of the natural parents to adoptee parents despite filing the necessary application along with Adoption Deed; that since the respondent is not affecting necessary change in their record and issuing fresh registration certificate, marks card of 10th, 11th and 12th class due to which the petitioner is suffering irreparably; that the rules framed by the respondent-Board allows correction/change where warranted by the respondent-Board for the change of the name of the parents.

- 2.4** It is further urged in the petition that on the direction of the respondent-Board, the matter was also published on 15.11.2023 in State Times Newspaper that if anybody has any objection with respect to the change/correction of the parentage from natural parents to adoptee parents, may lodge the same before the Joint Secretary, Certificates and Joint Director, J&K Board of School Education, Jammu within seven days but no such objection is raised by any person till date. Despite that the respondent-Board did not agree to issue the fresh certificate by correcting their record; that the name of the minor is also entered in the ration card of the petitioner by the Directorate of Consumer Affairs and Public Distribution Jammu; that in case the respondent-Board

did not affect the correction in its record and issue fresh certificates of the petitioner with adoptee parents of the petitioner, the whole career of the minor will be spoiled and he will not be in a position to apply in any of the vacancies advertised by the defence forces or other civil departments and it will affect the whole career of the minor Prince Kumar which will be in violation of the Article 21 of the Constitution of India.

- 03.** Pursuant to notice, the respondents have filed the objections wherein it is stated that the alleged Adoption Deed registered before the Sub-Registrar Jammu South-1 on 21.12.2021 is a matter of record and its validity is required to be proved by the petitioner before this Court; that as per the record of answering respondent Board, the parentage of the petitioner provided by the concerned institution in the shape of examination form of 10th class under Roll No. 160112056 session Annual Regular 2023 summer zone JD has been shown as Ashok Kumar and mother's name as Suresh Kumari. The said particulars of the petitioner have been accordingly shown in his marks certificates as well without any error or mistake by the answering board; that in case the petitioner was adopted by one Babu Ram in the month of December, 2021 as alleged by the petitioner, then the petitioner should have

brought this fact along with documentary evidence to the knowledge of concerned institution which has provided the particulars of the petitioner in the year 2023 for 10th class examination which has not been done by the petitioner for the reasons best known to him.

- 04.** It is submitted in the objections that the candidate/petitioner Prince Kumar has passed his 10th class examination from the respondent Board in the year 2023 and with same particulars his examination form for 11th class examination form has also been provided to the respondent Board through online process for the session Annual Regular 2024 soft zone JD; that the petitioner has not applied with respondent Board for correction of his recorded particulars as required in terms of Board regulations as reported by the concerned section of the Board as per records. Moreover, as per Board Regulations there is no provision for correction of recorded parentage on the basis of an Adoption Deed, as such, the respondent Board in terms of Board Regulations cannot correct his recorded particulars on the basis of registered Adoption Deed, as such, in absence of any such rule, the answering respondent Board cannot be compelled by the petitioner to make necessary corrections in his recorded particulars viz with regard to his parentage; that as per

the report submitted by the concerned section of the Board, no case file of the petitioner has been received for correction of his parentage in the certificate section of the Board.

05. Learned counsel for the petitioner argued that the petitioner was adopted by adoptee parents when he was fifteen years of age vide Adoption Deed which was registered on 21.12.2021 between the natural parents and adoptee parents. He further argued that in all the documents including Domicile Certificate and Caste Certificate, the name of the father of the petitioner has been shown as Babu Ram, except Marks Cards of 10th, 11th and 12th classes. Lastly, he has argued that the respondent-Board be directed to affect the correction in the record and issue fresh certificates of the petitioner with adoptee parents of the petitioner so that the petitioner would be in a position to apply in any of the vacancies advertised by the defence forces or other civil departments.

06. Learned counsel for the respondent-Board, ex adverso, argued that there is no provision for correction of recorded parentage on the basis of an alleged Adoption Deed, as such, the respondent Board in terms of Board Regulations cannot correct petitioner's recorded

particulars on the basis of registered Adoption Deed, as such, in absence of any such rule, the answering respondent Board cannot be compelled by the petitioner to make necessary corrections in his recorded particulars viz with regard to his parentage. He has also argued that the petitioner has not applied to the respondent-Board for correction of his parentage in its record as alleged by the petitioner in his petition. Had he applied for it, the respondent-Board would have passed the consideration order in terms of the Board Regulations. Lastly, he has argued that the petition be dismissed.

- 07.** Heard learned counsel for the parties and perused the record.
- 08.** It is not in dispute that the petitioner-Prince Kumar has been adopted by the adoptee parents vide valid Adoption Deed which was registered on 21.12.2021 between the natural parents and adoptee parents of the petitioner. It is the case of the petitioner that despite requesting for change of parents' name from natural parents to adoptee parents in the marks card of 10th, 11th and 12th class, the respondent-Board of School Education has refused to correct the same.
- 09.** The argument of learned counsel for the respondent that correction sought by the petitioner cannot be made on

the ground that there is no provision for correction of recorded parentage on the basis of an alleged Adoption Deed deserves to be rejected on the ground that in terms of Section 16 of the Hindu Adoptions and Maintenance Act, 1956, whenever any document registered under any law is produced before any court purporting to record an adoption made and is signed by the parties, the court shall presume that the adoption has been made in compliance with the provisions of this Court unless and until it is disproved. For purposes of present controversy, Section 16 of the Hindu Adoptions and Maintenance Act, 1956 is relevant and reproduced herein:-

“16. Presumption as to registered documents relating to adoption. – Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.”

It is the admitted fact that the Adoption Deed in question is a valid document which has not been disproved/disqualified.

10. Learned counsel for the petitioner has placed reliance upon a three Judge Bench judgment of the Apex Court in case titled **“Jigyā Yadav (Minor) (through Guardian/Father Hari Singh) vs. C.B.S.E (Central Board of Secondary Education & Ors)** reported in **2021 AIR (SC) 4775**, wherein the Apex Court in paragraphs 170 and 171 has drawn conclusions by stated mechanism and passed directions to process the applications for correction or change, as the case may be, in the certificate issued by it in the respective cases under consideration.
11. The petitioner, as per the stand taken by the respondent, has not formally applied for correction of his parentage and that had he applied, it would have been certainly dealt with and decided by the competent authority in the respondent-Board. It means that respondent-Board is not averse to consider the matter at the appropriate level, if applied for by the petitioner.
12. Having regard to the aforesaid reasons and discussions made hereinabove and also in view of Section 16 of the Hindu Adoptions and Maintenance Act, 1956 and three Judge Bench judgment of the Apex Court (supra), this petition is allowed providing as under:

- (i) The petitioner shall apply for the correction of his parentage, in terms of the Regulations therefor within a period of two weeks from the date of this order.
- (ii) The respondent-Board is directed to consider the case of the petitioner for change of parentage from natural parents to adoptee parents in its record and issue fresh certificates within the statutory period.

13. Disposed of, accordingly, along with connected application(s).

JAMMU
27.02.2025
Naresh/Secy

(M A CHOWDHARY)
JUDGE

Whether order is speaking: Yes/No
Whether order is reportable: Yes/no

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