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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8916 of 2015
Date of decision:29.07.2015

Rohit Sharma ...Petitioner

Versus

Union of India and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sandeep Kotla, Advocate,
for the petitioner.

Mr. N.K.Setia, Advocate,
for respondent nos.2 and 3.

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Rakesh Kumar Jain, J.

The petitioner has prayed for a writ in the nature of *mandamus,* directing the respondents to change his parent's name in the Senior Secondary School Certificate issued by the Central Board of Secondary Education (hereinafter referred to as the "CBSE").

In brief, the petitioner passed his 10th Class examination from the Board of School Education, Haryana (hereinafter referred to as the "BSEH") in May, 2011 and Senior Secondary Certificate Examination from the CBSE in May, 2013. He was born on 02.08.1996 to Pawan Kumar Sharma and Preeti. His father Pawan Kumar Sharma died and his mother Preeti solemnized second marriage with one Parmod Kumar Sharma, a resident of DD Flat, CB-52D, Hari Nagar, Near Ghanta Ghar, New Delhi.

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The petitioner was adopted, by way of registered adoption deed dated 12.06.2013, by her maternal grandparents, namely, Shekhar Chand and Bimla, residents of Mohalla Tilla, Ward No.6, Tehsil and District Jhajjar. After his adoption, he applied for change of his parentage in 10th Class certificate issued by the BSEH. The said change was effected by the BSEH and a duplicate certificate was issued to him after necessary amendment/correction on 04.04.2014, in which name of his father is recorded as "SHEKHAR CHAND" and name of his mother as "BIMLA". Thereafter, the petitioner applied to the CBSE on 31.03.2015 for the change of his parentage in his 10+2 certificate, alleging that he had passed his 10+2 class from the CBSE on 27.05.2013, supplied the gazette notification, notices published in two newspapers and original copy of the affidavit to the concerned school, on the basis of which his school Mother India Sr. Secondary School, Maraut, Jhajjar, changed his parentage and supplied to him the true copy of the admission form and certificate. Besides this, the Kuldeep Singh Memorial School, from where he had passed his 11th Class, has also issued updated School Leaving Certificate. Since the CBSE did not issue him the desired certificate of 10+2 with changed parentage, the present petition has been filed.

After notice, the respondents have filed reply and relied upon the Examination Bye-laws, alleged to have been amended vide notification dated 25.06.2015, as per which the application for correction could have been filed within one year of the declaration of result, whereas the petitioner has submitted his application after almost 2 years of the issuance of the

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certificate.

In this regard, the relevant Rule 69.1(ii), un-amended and amended, are reproduced as under:-

Rule No.	Existing Rule	Amended Rule
69.1(ii)	Correction in name to the extent of correction in spelling errors, factual typographical errors in the Candidate's name/Surname, Father's name/Mother's name or Guardian's name to make it consistent with what is given in the school record or list of candidates (LOC) submitted by the school may be made. Application for correction in name of Candidate/Father's/ Mother's/Guardian's name will be considered only **within ten years** of the date of declaration of result provided the application of the candidate is forwarded by the Head of Institution with the following attested documents: a) True Copy of Admission form(s) filled in by the parents at the time of admission duly attested by the Head of the concerned Institution b) True Copy of the School Leaving Certificate of the previous school submitted by the parents of the candidate at the time of admission duly attested by the Head of the concerned institution c) True copy of the portion of the page of admission and withdrawal register of the school where the entry has been made in respect of the candidate, duly attested by the Head of the concerned institution.	Correction in name to the extent of correction in spelling errors, factual typographical errors in the Candidate's name/Surname, Father's name/Mother's name or Guardian's name to make it consistent with what is given in the school record or list of candidates (LOC) submitted by the school may be made. Application for correction in name of Candidate/Father's/ Mother's/Guardian's name will be considered only **within one year** of the date of declaration of result provided the application of the candidate is forwarded by the Head of Institution with the following attested documents: a) True Copy of Admission form(s) filled in by the parents at the time of admission duly attested by the Head of the concerned Institution b) True Copy of the School Leaving Certificate of the previous school submitted by the parents of the candidate at the time of admission duly attested by the Head of the concerned institution c) True copy of the portion of the page of admission and withdrawal register of the school where the entry has been made in respect of the candidate, duly attested by the Head of the concerned institution.

I have heard learned counsel for the parties and examined the relevant record.

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There is no dispute that the petitioner is the son of Pawan Kumar Sharma and Preeti. Pawan Kumar Sharma unfortunately died and his mother Preeti had solemnized second marriage with Parmod Kumar Sharma. The petitioner has been adopted by his maternal grandparents by way of registered adoption deed dated 12.06.2013 and name of the adoptive parents have been duly changed in his 10th class certificate issued to him by the BSEH on 04.04.2014. Section 12 of the Hindu Adoptions and Maintenance Act, 1956 provides that *"an adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family".*

According to the aforesaid provision, the adopted child shall be deemed to be the child of adoptive father and mother for all intents and purposes from the date of adoption and all his ties in the family of his birth are severed and replaced by those created by the adoption in the adoptive family.

The petitioner, for all intents and purposes, is now the son of Shekhar Chand and Bimla and has already got his 10th Class Certificate corrected by the BSEH, but the CBSE has declined it only on the ground that the application has been filed by the petitioner after 2 years, though Rule 69.1(ii) of the Examination Bye-Laws has been amended on 25.06.2015.

In this regard, counsel for the petitioner has relied upon a

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decision of this Court in the case of **Sunil Kumar Sharma vs. Union of India and others",** CWP No.11342 of 2015, decided on 10.07.2015 in which this Court has held that Rule 69.1(ii), notified on 25.06.2015, would operate prospectively from the date of notification. Thus, Rule 69.1(ii) of the Examination Bye-Laws would not apply to the case of the petitioner who had submitted his application to the CBSE much earlier i.e. on 31.03.2015.

In view of the aforesaid discussion, the present writ petition is hereby allowed and respondents no.2 and 3 are directed to issue fresh certificate of 10+2 to the petitioner by changing his parentage, as claimed by him, on the basis of the adoption deed. The needful shall be done within a period of one month from the date of receipt of certified copy of this order.

July 29, 2015 (**Rakesh Kumar Jain)**
vinod* **Judge**