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

+ **W.P.(C) 6187/2015**

HEMANT MALVIYA

..... Petitioner

Through: Mr. Lovkesh Sawhney & Mr. Shyam
Singh Chauhan, Advs.

Versus

**CENTRAL BOARD OF SECONDARY
EDUCATION (CBSE) & ANR**

..... Respondents

Through: Mr. Amit Bansal & Ms. Manisha
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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01.07.2015

CM No.11243/2015 (for exemption)

Allowed, subject to just exceptions.

The application is disposed of.

W.P.(C) 6187/2015

1. This petition is filed seeking mandamus to the respondents Central Board of Secondary Education (CBSE) to incorporate and give effect to the change in name of the petitioner, his father as well as his mother from that given in the Senior School Certificate Examination, 2011 and in All India Secondary School Examination, 2008 certificates issued to the petitioner, to that as stated to be the changed names.

2. It is the case of the petitioner, i) that in the school records, his name was earlier entered as Hemant Kumar, his father's name was entered as Surat Singh Tooria and his mother's name was entered as Gaura Bai Tooria; ii) that all three of them have changed their name to Hemant Malviya, Gulab Malviya and Pramila Malviya respectively by following the procedure prescribed in law and the said change has also been carried out in the school records and the school has forwarded the application for change of name duly supported by requisite documents to the respondent CBSE; and, iii) that though the respondent CBSE vide letter dated 26th September, 2014 sought certain other documents from the petitioner and which were duly supplied by the petitioner but the change has not been affected as yet. Hence this writ petition.
3. The counsel for the respondent CBSE appears on advance notice and states that as per his instructions no change in name can be permitted after the certificate has been issued. He, in this regard, draws attention to bye-law 69.1 of the Examination Bye-laws of the CBSE as reproduced in the petition as under:

“69.1 Changes and corrections in Name

- (i) No change in name / surname once recorded in the Board's records shall be made. However, correction in the name to the extent of correction in spelling errors, factual typographical

errors in 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.

Provided further that in no case, correction shall include alteration, addition, deletion to make it different (except as mentioned above) from the LOC or the school records.

- (ii) Application for correction in name / surname will be considered only within ten years of the date of declaration of result provided the application of the candidate is forwarded with the following documents:
 - (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 affect necessary corrections after verification of the Original records of the school and on payment of the prescribed fee.”

and contends that only correction is permitted and not change of name as has been sought. It is further contended that the change effected in the school records is also of a date after the issuance of the certificates aforesaid and of no avail.

4. However in another matter listed yesterday, the counsel appearing for the respondent CBSE had handed over a copy of bye-law 69.1 as was stated to be the amended bye-law, and which is as under:

“69. Changes in Board’s Certificate.

69.1 Changes and Corrections in Name

- i) Change in name of candidate / Father / Mother / Guardian once entered in the Board’s record at any stage while studying in Class IX, X, XI, XII or thereafter, within a period of ten years from the date of issue of first such document shall be considered on written request of the Candidate (not minor) / father / mother / guardian duly forwarded by the Head of the Institution supported by the following documents:
 - a) Original copy of two newspapers (daily English / Hindi newspaper at National level & daily newspaper in a vernacular language circulated in the locality), in which the desired change has been published.
 - b) Original Affidavit duly sworn before the Judicial Magistrate, First Class / metropolitan Magistrate / Executive Magistrate / Sub Divisional Magistrate.
 - c) Original copy of Publication in Government Gazette.
 - d) Payment of prescribed fee.
 - e) True copy of admission form filled in by the parents duly updated as per Gazette Notification of desired change and duly attested by the Head of the concerned institution.
 - f) True copy of School Leaving Certificate of the previous school submitted by the parent / candidate at the time of admission and updated as per Gazette Notification of desired change, duly attested by the Head of the concerned institution.

- g) True Copy of the page of admission and withdrawal register of the school where the entry has been made in respect of candidate showing updation as per Gazette Notification of desired change, duly attested by the Head of the concerned institution.
- 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.
- iii. The Board may effect necessary corrections after verification of the original records of the school and on payment of the prescribed fee.
- iv. in case of change the document(s) will have a caption that may be read as **"CHANGE ALLOWED IN NAME/FATHER'S**

NAME/MOTHER'S NAME/GUARDIAN'S NAME FROM
_____ TO _____ ON (DATED _____) AS PER
REQUEST OF THE CANDIDATE AND GAZETTE
NOTIFICATION NO. _____ DATED _____."

5. It thus appears that the bye-law reproduced by the petitioner himself in the petition is an old bye-law and is not the now prevalent bye-law. The counsel for the respondent CBSE on enquiry confirms that the copy of the bye-law handed over yesterday and as reproduced above is the correct copy of the prevalent bye-law.

6. A perusal of the prevalent bye-law 69.1 shows that the change in name as distinct from correction in name is indeed permissible within a period of ten years from the date of issuance of the certificates. Once that is so, the arguments of the counsel for the respondent CBSE that only correction of name is permissible and that change in name affected after the issuance of the certificate cannot be incorporated in the CBSE records cannot be sustained.

7. The petitioner in the petition has stated that the school has forwarded the request of the petitioner to the respondent CBSE and though has along with the petition not filed a copy of the letter of the school but has filed a

copy of the courier receipt vide which the said documents were sent by the school to the CBSE. However, a perusal of the said courier receipt shows the petitioner as the consignor of the article so couriered. It thus cannot be confirmed at this stage that it is the school which has forwarded the request for change of name of the petitioner and his parents to the CBSE. The requirement of the bye-law aforesaid being for such a change to be considered by the CBSE only on a written request forwarded by the head of the institution supported by the documents, in issuing any direction to CBSE no purpose would be served if the school has not done so.

8. The counsel for the respondent CBSE states that he has no instructions at this stage whether any such request has been received from the school or not.

9. The counsel for the petitioner at this stage states that without entering in the said controversy, the petitioner shall ensure that such a request is now forwarded by the head of the school to the respondent CBSE.

10. Accordingly, this petition is disposed of with the following directions:

- (a) The respondent CBSE to, if has already received the request for change of names aforesaid from the School in which the

petitioner has studied, to consider the said request in accordance with bye-law 69.1 (supra) and to pass the requisite order thereon.

- (b) If the request from the school has not been received till date, the petitioner to take steps for having such a request forwarded from the school and upon receipt of such a request, the respondent CBSE to consider the same and pass appropriate orders thereon, again in accordance with bye-law 69.1 (supra).
- (c) In view of the urgency expressed by the petitioner, it is further directed that the said request be considered and disposed of within a period of 45 days either from today if the request has already been received or within 45 days of the receipt of the request from the school.
- (d) It is further clarified that if any deficiency is found in the request, the petitioner shall be given an opportunity to make up the said deficiency, all within the aforesaid period of 45 days as aforesaid.
- (e) The request, if being declined, be declined with a speaking

order. Needless to state that the petitioner will have remedies
thereagainst.

No costs.

Dasti.

RAJIV SAHAI ENDLAW, J

JULY 01, 2015
'gsr'..