

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6374 OF 2015

VASUDEV NITESHKUMAR PATEL
VERSUS
THE UNION OF INDIA AND OTHERS

...

Advocate for Petitioner : Mr. Awate Umakant R.
Mr. SB Yawalkar, AGP for Respondents: 1, 2 & 4;
Mr. Deshpande Sanjeev B. ASG For Resp.Nos. 1 And 2

**CORAM : S.S.SHINDE &
P.R.BORA,JJ.**

DATE : 5th February, 2016.

PER COURT :

1) Heard learned Counsel for respective parties.

2) This petition takes exception to communication dated 5.5.2015 addressed to Principal, School No. 16130, Vidyamandir Senior Secondary School, Dadawadi, Ladpura, Kota (Rajasthan), thereby refusing to change name of father of the petitioner in 10th std. Mark sheet and other school record. It is the case of the petitioner that name of father of the petitioner in Birth Certificate, issued by the Department of Health and Family Welfare, Government of Gujarat (page 21 of the petition), is mentioned as "Nitesh Kumar". Even in a copy of extract of

Passport (page 22 of the petition) name of father of the petitioner is recorded as "Niteshkumar". It appears that even in Driving License, petitioner's father name is written as "Niteshkumar Patel". There are other documents, which are placed on record by the petitioner, wherein name of father of the petitioner is mentioned as "Niteshkumar Jivraj Patel". However, it appears that the petitioner's prayer for correction in the name of father in the School record, i.e. 10th Mark sheet and other school record, has been rejected by the respective authorities on the ground that, unless changes in the name or surname of a candidate have been admitted by the court of law and to that effect a declaratory decree for change of name is issued, prayer for change in the name of father of the petitioner, cannot be considered.

3) Learned Counsel appearing for the petitioner invited our attention to reported judgment of Delhi High Court in the case of Rashmeet Kaur Kohli (Minor) Through Mrs. Amarjeet Kaur Vs. Central Board of Secondary Education (CBSE) – Writ Petition(C) No. 15521/2006 (page 37 of the petition) and submits that in similar facts situation, the Delhi High Court has

taken a view that a declaratory decree for change in name from the competent court is not necessary. He, therefore, submits that the petition deserves to be allowed.

4) On the other hand, learned Asstt. Solicitor General, appearing for Respondent Nos. 1 & 2, vehemently opposed the prayer made by the petitioner. He submits that, the relevant procedure requires that, there should be a declaratory decree for change in name from the competent Court, and unless a declaratory decree is issued, change in the name of father cannot be allowed and, therefore, the prayer of the petitioner is rightly turned down by the respondents/authorities.

5) We have heard the learned Counsel appearing for the petitioner and learned ASG appearing for the respondents. With their able assistance, perused the pleadings in the petition, annexures thereto and judgment of the Delhi High Court in the case of Rashmeet Kaur Kohli (cited supra). Upon careful perusal of the copies of the documents placed on record, i.e. from pages 21 to 25 of the petition, prima facie, it appears that the name of father of the petitioner is "Niteshkumar" in the school record

as well as in other documents including the Passport, Aadhar Card, Driving License etc. The learned Counsel appearing for the petitioner has rightly placed reliance in the case of Rashmeet Kaur (cited supra), wherein the Delhi High Court has occasion to consider similar fact situation and after considering the facts involved in the said case, has reached to the conclusion that such declaration is a discretion of the Court and the Court may grant decree of declaration in certain circumstances. However, in exercise of jurisdiction under Article 226 of the Constitution of India, change in the name can be permitted. In the facts of that case, the Delhi High Court directed the respondents therein to change name of the petitioner from "Rashmeet Kohli" to "Rashmeet Kaur Kohli" in the record maintained by the respondents therein.

6) Keeping in view the observations of the Delhi high Court, in paras 7 to 9 in the case of Rashmeet Kaur (cited supra), we direct the respondents to verify the original documents of father of the petitioner, which show name of father of the petitioner as "Niteshkumar Patel", and after verifying the original documents, if the

respondents/authorities are satisfied, make necessary changes in the School record of the petitioner, as prayed by him, so as to correct the name of the father of the petitioner, without insisting for a declaratory decree from the court, as expeditiously as possibly and preferably within a period of six weeks from today.

7) The petitioner to approach the Respondent No.2 on 11th February, 2016 with original documents of father of the petitioner.

8) With these directions and observations the petition is partly allowed and the same stands disposed of.

9) Learned ASG, in addition to communicating the order passed today by this Court by the petitioner, assures this Court that this order will be communicated to the respondents/authorities by fastest mode of communication.

. Parties to act on authenticated copy of this order.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

bdv/2