

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.5383 of 2016

Date of decision: 6.10.2016

Arzaab Singh Dhindsa

...Petitioner

Versus

Central Board of Secondary Education and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Tribhawan Singla, Advocate for the petitioner.

Mr. Nitin Kant Setia, Advocate for respondents no.1 and 2.

Ms. Alka Sarin, Advocate for respondent no.3.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks direction in the nature of Mandamus to change his name from Abhaybir Singh Dhindsa to Arzaab Singh Dhindsa in the record and issuance of his certificate of Secondary School Examination Year 2015 in the name of Arzaab Singh Dhindsa.

The writ petition has been opposed by the respondent-Board on the ground that under Rule 69.1 of the Examination Bye-laws, the application had to be made before the publication of the result. Relevant Rule 69.1 reads as under:-

“Applications regarding changes in name or surname of candidates may be considered, provided the changes have been admitted by the Court of law and notified in the Government Gazette before the publication of the result of the candidate.”

The said denial is apparently unjustified in the facts and circumstances of the case. It is not disputed that before the result was declared on 28.5.2015 (Annexure P/1), the petitioner's father had already

got a publication done on 1.3.2015 in the newspaper (Annexure P/2) regarding the change of name of the petitioner. Similar exercise was also carried out and notified in the Chandigarh Administration Gazette of even date (Annexure P/2). After the declaration of the result, representation dated 15.7.2015 along with gazette notification and newspaper (Annexure P/3) was made to respondent no.3-School which was followed by reminder dated 10.12.2015 (Annexure P/4). In the meantime, the petitioner also got his passport issued on 30.9.2015 (Annexure P/7) in which his changed name 'Arzaab Singh Dhindsa' was mentioned. On account of non decision, a legal notice was served on 15.1.2016 (Annexure P/6) which lead to the school forwarding the case to the respondent-Board and documents were asked for on 9.2.2016 (Annexure P/9). The school supplied the necessary documents on 18.2.2016 (Annexure P/10) but on account of inaction, the present writ petition was accordingly filed.

As noticed the Rule 69.1 provides that the application would be considered provided the change has been admitted by the Court of law and notified in the Government gazette before the publication of the result of the candidate.

Facts have already been noticed above. The necessary change had already been notified on 1.3.2015 in the Government gazette (Annexure P/2) before the publication of the result on 28.5.2015 (Annexure P/1). The requirement of the change having been admitted by the Court of law has also been held to be a unnecessarily requirement by the Delhi High Court in **Navee @ Naveen Dogra and others Vs. CBSE 2013 (205) DLT 32**. The relevant observations read as under:-

“A perusal of the above extracted Bye-law, the same can be allowed only if the name in the record of CBSE is

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Punjab and Haryana High Court,
Chandigarh

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 Bye-law 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 Bye-law, 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 Bye-law, 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 Bye-law 69.1 of Examination Bye-laws, 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.”

In such circumstances, this Court is of the opinion that the present writ petition is liable to be allowed as the denial is without any substance and valid basis.

Accordingly, the respondent-Board is directed to make necessary correction in the certificate in question on the strength of gazette notification dated 1.3.2015 (Annexure P/2) within a period of one month from the date of receipt of certified copy of this order. The original certificate shall be surrendered by the petitioner to the respondent-Board which shall issue necessary corrected certificate incorporating the fact of change of name of the petitioner in the certificate itself.

With the aforesaid observations, the present writ petition is allowed.

October 06, 2016
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No