

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

Civil Writ Petition No.8720 of 2016

Date of decision: 20.10.2016

Amanat Kaur Cheema

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Liaqat Ali, Advocate for the petitioner.

Ms. Lavanya Paul, Assistant Advocate General, Punjab.

Mr. Nitin Kant Setia, Advocate for respondents no.2 and 3.

Mr. Ravinder Singh Sampla, Advocate for respondent no.4.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks necessary correction in her name mentioned in the matriculation and 10+2 examination certificates by including the word “Kaur” since her name has been mentioned as “Amanat Cheema” in the said certificates. She wants her name to be mentioned as “Amanat Kaur Cheema” instead of “Amanat Cheema”.

It is the pleaded case of the petitioner that as per certificates of the Secondary School Examination dated 30.5.2013 (Annexure P/2) and the Senior School Certificate Examination, 2015 dated 25.5.2015 (Annexure P/3) her name had been mentioned as 'Amanat Cheema'. She belongs to Jat Sikh community and is Sikh by birth. In the passports (Annexure P/4), her parents names have been described as “Surinder Pal Singh” and “Harjit Kaur Cheema”. She was also using suffix “Kaur” in her Election Voter ID Card and also in the Adhar Card (Annexure P/5-Colly).

The petitioner through her parents had approached respondent-

Pradeep Kumar,
21/10/2016
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Punjab and Haryana High Court,
Chandigarh

Board to make necessary corrections in the said certificates and she had been advised to get publication made regarding change of her name which has been duly done on 16/17.4.2015 (Annexure P/6-Colly). Necessary affidavits had also been duly furnished. Thereafter, representation dated 15.4.2016 (Annexure P/7) had also been made. The additional ground has been taken that the petitioner was also seeking admission with respondent no.4-institute in which 50% seats are reserved for the candidates belonging to Sikh minority community and in order to get the benefit the said requirement is also necessary.

The respondent-Board in its reply has taken various objections on the ground that the Civil Court will be the Court of competent jurisdiction and placed reliance upon Rule 69.1 of the Examination Bye-laws whereby that the change had to be notified before the publication of the result and the same is not liable to be done.

Counsel for the petitioner submits that publication regarding the change of name was done on 16/17.4.2015 before the final result of + 2 was declared on 25.5.2015. Therefore, the benefit of change is permissible and that the admission by the Court of law was not necessary requirement as has been held by this Court in **Civil Writ Petition No.5383 of 2016- Arzaab Singh Dhindsa Vs. Central Board of Secondary Education and others** decided on 6.10.2016 while relying upon the judgment of the Delhi High Court in **Navee @ Naveen Dogra and others Vs. CBSE 2013 (205) DLT 32**. The relevant paras read as under:-

“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 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.”

Keeping in view above and the fact that the petitioner belongs to Sikh community and her parents also carry suffix “Singh” and “Kaur” in their names, the present writ petition is allowed.

Accordingly, the respondent-Board is directed to make necessary correction in the certificates in question on the strength of publication (Annexure P/6) within a period of three months from the date

of receipt of certified copy of this order. The original certificates shall be surrendered by the petitioner to the respondent-Board which shall issue necessary corrected certificates incorporating the fact of addition in the name of the petitioner in the certificates itself.

October 20, 2016
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(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No