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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1242/2016, CM No. 40480/2016**
ADITYA SRIVASTAV

..... Petitioner

Through: Ms. Namita Roy, Adv.

versus

CENTRAL BOARD OF SECONDARY EDUCATION AND ANR

..... Respondent

Through: Mr. Atul Kumar, Adv. for R-1

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

07.12.2016

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W.P.(C) 1242/2016

1. The present writ petition has been filed by the minor petitioner through his mother with the following prayers:

“a) To issue a Writ of Mandamus or any other appropriate writs or orders or directions thereby directing the respondents to change the name of the petitioner from Randhir Shrivastav to Aditya Shrivastav in all the records as maintained by them pertaining to the petitioner herein;

b) To issue appropriate writs, orders or directions thereby directing the respondents to issue a fresh Mark Sheet and Certificate for Class X examination passed by the petitioner in the year 2015 from the School M.D. Vivekananda School, Delhi pertaining to his Roll No. being 8200530 and also direct

the Respondents 1 and 2 to change the name of the petitioner from Randhir Shrivastav to Aditya Shrivastav and to make all other necessary changes as may required in the records of respondent maintained in their offices;

bb) To issue appropriate writs, orders or directions thereby directing the respondents to change the name of the petitioner from Randhir Shrivastav to Aditya Shrivastav maintained by respondents in all its records relating to the petitioner Class XI and class XII examinations and the petitioner should be allowed to fill up all applications concerned with the petitioner's board exams that in class XII (Central Board of Secondary Examination) in the changed name from Randhir Shrivastav to Aditya Shrivastav.

c) To pass any other order or direction or further orders or directions as to this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice."

2. It is noted from the petition that the petitioner had appeared in Class X Board Examination in the month of March 2015. In the month of June, 2015, the result of Class X (Board Examination result) was declared and the petitioner passed the same. In the month of June 2015 itself, the petitioner released a public notice in the Times of India, (Delhi Edition) and Navbharat Times Newspapers. In the month of July, 2015, the petitioner joined the Class XI in the same school. On December 5, 2015, the petitioner got

notified the change of name in the Gazette of India. On December 18, 2015, the petitioner approached the CBSE seeking change of his name from Randhir Shrivastav to Aditya Shrivastav along with the copy of the newspapers' and gazette publication when he was informed that change can be done only if a Court order to that effect is produced before the CBSE.

3. It is averred that on January 18, 2016 he again wrote to the CBSE, seeking change of his name from Randhir Shrivastav to Aditya Shrivastav. On February 3, 2016, the CBSE-respondent No. 1 replied that the change of name cannot be done unless the Court order to that effect is obtained from a Court of Law.

4. The respondent no.1 has filed an affidavit in answer to show cause wherein, the respondent has primarily taken a stand that the amendments to the Bye-laws were effected from June 25, 2015. The amended examination bye-laws 69.1(i) and 69.1(ii), are reproduced as under:

“69.1 (i)

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.

69.2 (ii)

Correction in name to the extent of correction in spelling errors, factual typographical errors in Candidate's Name/Surname, Father's Name/Mother'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) 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."*

It is the case of the respondent No. 1, in terms of the above amended Bye laws i.e. Bye law 69.1(i), the application regarding changes in name or surname of candidates, may be considered by respondent No. 1, provided the changes have been admitted by the Court of law and notified in the

Government gazette before the publication of the results of the candidate. The result of the petitioner for the All India Secondary School examination (Session: 2013-15) conducted by the respondent No. 1 was declared on May 28, 2015. The petitioner had submitted an application dated January 18, 2016 for effecting the change in name in the records of respondent No. 1 and the certificates issued by the respondent No. 1. The name of the petitioner has allegedly been changed after the declaration of the result of the Class X examination. The request of the petitioner was therefore rejected as not being in accordance with the Bye law 69.1(i).

5. The learned counsel for the petitioner would contend that the result of the petitioner having been declared before the amendments effected by the respondent No. 1 on June 25, 2015, the case of the petitioner shall be regulated by the pre-amended Bye law of June 22, 2011, which inter alia stipulated, that the change in the name of the candidate father / mother / guardian could be carried out within a period of 10 years from the date of issue of first such document. She states that the petitioner could not have foreseen an amendment being issued by the respondent No. 1, which would take away the right of a candidate to seek correction/change in name within 10 years. She also states that there was no undue delay in the petitioner

seeking correction/change in his name.

6. This Court is not in agreement with the submission made by the learned counsel for the petitioner in view of the judgment / order dated September 17, 2015 of this Court in ***W.P.(C) 5323/2015, Kalpana Thakur and Anr. v. CBSE and Anr.*** wherein, this Court had in very clear terms, has held that all applications for change of name, which are filed prior to notification dated June 25, 2015, will be governed by the unamended bye-law 69.1(i). In other words, any application filed thereafter, shall be governed by the amended bye-law 69.1(i). It is conceded by the learned counsel for the petitioner that the petitioner had made a request to the CBSE only on December 18, 2015, which is much after the date of notification dated June 25, 2015. If that be so, before that date, there was no request for change of name. Without a request, CBSE could not have changed the name. It is also not his case that he has initiated the process for seeking correction in his name in terms of the pre-amended bye-law before June 25, 2015.

7. In view of the bye-law 69.1(i), the prayers as made in the writ petition, cannot be granted. I also note, the petitioner has not challenged the vires of bye-law 69.1(i) of the bye-laws which came into effect vide

notification dated June 25, 2015. The present petition is dismissed. No costs.

CM. No. 40480/2016

In view of the fact that I have dismissed the writ petition, the present application is also dismissed.

V. KAMESWAR RAO, J

DECEMBER 07, 2016/ak