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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6907/2015, CM No. 6290/2016

TARUN GOYAL

..... Petitioner

Through: Mr. Vikram Saini & Ms. Chhaya
Sharma, Advs.

versus

UNIVERSITY OF DELHI

..... Respondent

Through: Mr. Saurabh Banerjee, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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28.11.2016

1. On August 6, 2015 this Court while issuing notice in the writ petition, had observed as under:-

“2. Prima facie, it appears that such a rule of not entertaining any applications for change of name after the student has passed out from the University would be unreasonable and arbitrary inasmuch the same can pose hurdles to the future career of a student who realizes the mistake after passing out from the university. Moreover, a certificate would ordinarily be issued only after the student has passed out and not before that.”

2. The respondent has filed counter-affidavit wherein they have justified their action of rejecting the request of the petitioner for change of name by

relying upon the decision of the Executive Council dated May 28, 2015, whereby the Executive Council has accepted the recommendation of the Committee wherein the following amendments have been recommended by the Committee with regard to the applications for change of name. The same reads as under:-

“Application for change of name will be entertained only when the applicant is a student of University of Delhi at the time of applying for change of name.

Application for change of name from a person, who is not a student of the University at the time of submission of application or who has already completed his/her course of study shall not be considered.”

3. It is noted that on October 13, 2015 this Court had passed the following order:-

“1. This is a second round of litigation for the petitioner. The earlier writ petition was numbered as : WP(C) 554/2015. The said writ petition was disposed of, by this court vide order dated 19.02.2015. In sum, the respondent / university was directed to treat the writ petition as a representation and pass appropriate orders on the same.

1.1 Furthermore, the court also noted that the Executive Council of the respondent / university had resolved that the Vice Chancellor would constitute a committee to consider

modalities to deal with the request made by the students for change of name.

1.2 It appears that the committee was constituted which gave its recommendation at a meeting held on 18.03.2015.

1.3 The matter, thereafter, was sent back to the Executive Council, which accepted the recommendations of the Committee with one addition, which was, that the student concerned would have to get, in the first instance, his name changed in the record of the CBSE/State Board / other related Boards.

2. To be noted, in this case the petitioner has got his name changed with the CBSE both qua Class X and XIIth certificates. The endorsements made on both certificates, which are similar, read as follows :-

“..# CAP : Change allowed in C/N & F/N from Tarun Kumar to Tarun Goyal & Subhash Chand to Subhash Chand goyal on 12.10.14 as per candidate request vide Gazette Notification No.DL(N)-04/0007/2003-05/28 DT JULY 12-18, 14...”

2.1 To be noted, there were two other writ petitions before this court i.e. WP(C) 623/2013, titled : Radhika @ Rajwanti Vs. University of Delhi and Anr. and WP(C) 4424/2013, titled : Rajneesh @ Rajani Kant Vs. Campus of Open Learning. Qua these petitioners as well, it appears the respondent / university was directed to consider their cases vide order dated 17.10.2014 and 27.05.2015, respectively.

2.2 Admittedly, in both WP(C) 623/2013 and WP(C) 4424/2013, change in name has been allowed by the respondent/university.

2.3 In so far as Rajneesh is concerned, the letter dated 22.04.2015 of the respondent / university shows that the change in name has been allowed as a “special case”.

3. The learned counsel for the petitioner rightly contends that there is nothing stated in the counter affidavit which would demonstrate as to what were those special circumstances in the two cases referred to above, which propelled the respondent/university to permit change in name.

4. Accordingly, the respondent / university is directed to file an affidavit disclosing “special circumstances”, if any, which led to the respondent / university accepting the request for change in name in the aforementioned cases.

4.1 The affidavit will be filed within two weeks. A copy of the affidavit will be served on the counsel for the petitioner who, will be at liberty to file a rejoinder to the same.

5. List on 12.01.2016.”

4. Thereafter, a short affidavit has been filed by the respondent wherein the respondent has justified their action in para 2 of the same, which I reproduce as under:-

“2. I say that this Hon’ble Court was duly apprised the same as a statement to that effect was made on behalf of the Respondent University and which was duly recorded by this

Hon'ble Court in its order dated 19.02.2015 in the earlier W.P.(C) No. 554/2015 titled Tarun Goyal v. University of Delhi. I say that the respondent University permitted change of names in case of students who were not connected, i.e not on its rolls in view of the specific order passed by this Hon'ble Court in earlier W.P.(C) No. 623/2013 titled as Radhika @ Rajwanti v. University of Delhi & Anr. under "special category" as has also been duly recorded in the same order dated 19.2.2015 passed by this Hon'ble Court (Annexure P7)."

5. Even though, this Court, in its order dated July 11, 2016 was of the view that the affidavit filed does not disclose the special circumstances, which were existing in respect of those two students, which do not exist in the case of the petitioner, during the submissions today, Mr. Saurabh Banerjee would contend that this Court in the hearing dated August 30, 2016 was satisfied that the affidavit discloses the fact that the University had allowed the cases of two students namely Radhika @ Rajwanit and Rajneesh @ Rajani Kant as special cases.

6. Mr. Saurabh Banerjee would also contend that in the cases of Radhika @ Rajwanti and Rajneesh @ Rajani Kant, the names were changed as there were directions from this Court on October 17, 2014 and February 19, 2015 2015 in W.P(C) No. 623/2013 titled Radhika @ Rajwanti v. University of

Delhi and Anr. and W.P.(C) No. 4424/2013 titled Rajneesh @ Rajani Kant v. Campus of Open Learning respectively.

7. A direction from the Court, if constitutes a special category, surely in the case of the petitioner as well, there was a direction in the writ petition filed by the petitioner being W.P.(C) No. 554/2015 Tarun Goyal vs. University of Delhi on February 19, 2015, the same day on which directions were issued in the case filed by Rajneesh @ Rajani Kant, wherein direction was given to treat the petition filed by the petitioner as a representation and an appropriate decision be taken thereon.

8. Pursuant to the said direction in the communication dated June 10, 2015, the Joint Registrar, Academic communicating the decision of the Competent Authority on the representation of the petitioner has stated as under:-

“Dear Mr.Tarun Goyal,

In continuation of this office letter No. Aca.II/Change of Name/279/2015/04/571 dated 31.03.2015 this is to inform you that the recommendations of the Committee constituted by the Vice Chancellor to look into the modalities for change of name of students have been approved by the Executive Council in its meeting held on 28.5.2015.

Your representation was examined in light of the modalities

approved by the Executive Council. As per the said modalities, "Application for change of name will be entertained only when the applicant is a student of University of Delhi at the time of applying for change of name. Application for change of name from a person who is not a student of the University at the time of submission of application or who has already completed his/her course of study shall not be considered."

Since you got your name change and applied for change of your name to the University after you ceased to be a student of the University, in terms of the above rule, your request for change of name has not been acceded to."

9. I also note, that in the communication by the Delhi University while disposing of the request of Rajani Kant, vide letter dated April 22, 2015 (page 49 of the writ petition), the respondent-University had stated as under:-

"Ref: Orders dated 17.10.2014 and 19.2.2015 of the Hon'ble High Court in WPC No. 323/2013 titled Radhika @ Rajwanti v. University of Delhi and Anr. and W.P.(C) No. 4424/2013 titled Rajneesh @ Rajani Kant v. Campus of Open Learning respectively.

Dear Sir,

In pursuance of the above, the competent authority of the University has accepted the request of Mr. Rajani Kant for

change of his name from Rajani Kant to Rajneesh as a special case. His name after change will be read as Rajneesh alias Rajani Kant.

Yours faithfully

Joint Registrar (Academics)''

10. The aforesaid being the position, this Court is of the view that the petitioner should be given parity as in the case of Rajneesh @ Rajani Kant and Radhika @ Rajwanti as the petitioner had earlier filed a writ petition and there was a direction of the Court for considering the representation.

11. The apprehension expressed by the learned counsel for the respondent that allowing the writ petition will open pandora's box and de-hors the decision dated May 28, 2015 applications/petitions shall be filed for change of name, is unsustainable as the present writ petition is being allowed only on the ground of parity. Surely, if an application/petition is filed by the persons, who have left the University, for change of name, the University would be within its right to take recourse to the decision of the Executive Council dated May 28, 2015 accepting the recommendation of the Committee, which has already been reflected above.

12. Additionally, I also note the CBSE has changed the name of the petitioner in Class X and XII certificates.

13. Mr. Saurabh Banerjee who relied upon the judgment of the Supreme Court in the case reported as *(2010) 2 SCC 59 Union of India and others vs. M.K. Sarkar*, shall not be applicable to the facts of this case, when the challenge in this petition is to the communication dated June 10, 2015 by which the respondents have disposed of the representation of the petitioner pursuant to the order dated February 19, 2015 passed by this Court in W.P.(C) No. 554/2015 filed by the petitioner. That apart, it is noted that the CBSE had issued fresh certificates with changed/corrected name of the petitioner i.e Tarun Goyal on November 12, 2014. It is thereafter, the cause of action has accrued to the petitioner to file the petition, which he did by filing earlier petition being W.P.(C) No. 554/2015, in which no such objection was taken. That apart, the judgment relied upon by the learned counsel for the respondent is with regard to exercise of change of option from provident fund to pension. It was in the facts peculiar to that case, the Supreme Court has said that limitation or the delay and laches would come into play. The case is distinguishable on facts and not applicable.

14. The order dated June 10, 2015 is set aside. The respondent is directed to change the name of the petitioner as Tarun Goyal in place of Tarun Kumar in their records and issue fresh certificates and statement of marks

and degree in the corrected name.

CM No. 6290/2016

Dismissed as infructuous.

V. KAMESWAR RAO, J

NOVEMBER 28, 2016*/ak*