

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.15142 of 2017

and

M.P.Nos.16418 and 16419 of 2017

M.Jasmine Sulthana

... Petitioner

Minor rep by her father

R.Mahaboob Basha, as Natural Guardian.

vs.

1.Government of India,
Rep by its Secretary,
Ministry of Human Resources Development,
Department of Higher Education,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi.

2.Central Board of Secondary Education,
Rep by its Chairman,
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi - 110092.

3.Central Board of Secondary Education,
(Regional Office)
Rep by its Assistant Secretary,
New No.3 (Old No.1630-A),
J Block, 16th Main Road,
Anna Nagar (West), Chennai - 600 040.

4. The Principal,
Asan Memorial Senior Secondary School,
Cochin House, No.1, Anderson Road,
Chennai - 600 006.

...Respondents

Writ petition filed under Article 226 of the
Constitution of India to issue a Writ of
Certiorarified Mandamus
to call for the records relating to the notification dated
25.06.2015 passed by the 2nd respondent and the impugned order
dated 18.07.2016 passed by the 3rd respondent and quash the same
and direct the respondents 3 and 4 to correct the petitioner's
father's name in the Petitioner's Secondary School Leaving

Certificate vide No.0898425, dated 19.05.2014 and issue the original substituted certificate.

For Petitioner : Mr.Sai Srijan Taji for
Mr. Giridhar & Sai

For Respondent 1 : Mr.T.V.Krishnamachari

For Respondent 2 : Mr.G.Nagarajan

O R D E R

This Writ Petition has been filed challenging the notification dated 25.06.2015 passed by the second respondent and the impugned order dated 18.07.2016, passed by the third respondent and quash the same and direct the respondents 3 and 4 to correct the petitioner's father's name in the Petitioner's Secondary School Leaving Certificate vide No.0898425, dated 19.05.2014 and issue the original substituted certificate.

2. The case of the petitioner is that the petitioner passed her S.S.L.C. Public examination in May 2014 from Asan Memorial Senior Secondary School. She passed her Higher Secondary in the year 2016 and is undergoing B.E. course in Aalim Muhammed Salegh College of Engineering, Avadi. It is his further case that the petitioner's father name was initially spelt as R.Mahaboof Batcha. However, vide Government Gazette Notification dated 17.12.2014 (Sl.No.64222), it was notified that the petitioner's father's name was changed from R.Mahaboof Basha to Mahaboob Basha with effect from 11.12.2014. The change was intimated to School immediately thereafter. He intimated his change of name to the Government and accordingly his name was corrected in the employment records. The name change of the petitioner's father is recorded in the Ration card, Aadhar card and PAN card. Following the change of her father's name, the petitioner submitted a letter dated 26.05.2016 to the CBSE seeking corrections of her father's name in her SSLC certificate, as Asan Memorial Secondary School in which she studied was a CBSE School. But, vide letter dated 18.07.2016, the CBSE, the third respondent informed the petitioner that the request for name correction of her father is rejected, citing Examination by-laws dated 25.06.2015, which prescribes that the application for a correction in name of candidate/father's/mother's/guardian's name will be considered only within 1 year from the date of declaration of results. She was therefore informed that the request was rejected as time lapsed. Upon perusal of the notification No.CBSE/Coord/EC-31-3/2015 dated 25.06.2015 of the second respondent, it has come to the knowledge of the petitioner that the prescribed period for filing an application for correction in the name of the parents was reduced to one year from ten years. Being aggrieved by the

above communication dated 18.07.2016 from CBSE, the petitioner is before this Court, by way of filing the present Writ Petition.

3. Heard the learned counsel for the petitioner as well as learned counsel appearing for the respondents.

4. The learned counsel appearing for the petitioner would submit that clause 69.1(i) & (ii) of the impugned notification is without any statutory authority and it is without jurisdiction. He would further submit that Respondents failed to see that the petitioner is seeking to correct the name of the petitioner's father in the certificate and not any major correction. He would further submit that the intention of the petitioner is to pursue her higher studies abroad, for which a revised SSLC Certificate with correction of her father's name is mandatory, is being affected by the impugned notification of the 3rd respondent and hence prays to allow this Writ Petition.

5. A counter affidavit has been filed by the first respondent, stating that at this stage it is significant to note that the certificate of SSLC public examination was dated 19.05.2014 whereas the change/correction of petitioner's father name was notified in the Government Gazette only on 17.12.2014. It may be noted that any correction of the name pursuant to the gazette notification shall come into operation only from the date of publication in the Government Gazette and not retrospectively and in this case the Gazette notification was after the issuance of the Mark Certificate, hence correcting spelling of the father's name in the certificate issued by CBSE does not arise. Further in any event as per the amended CBSE Examination by laws clause 69.1(ii) correction in name to the extent of correction in spelling errors, factual typographical errors in the Candidate's name / surname, father's name/mother's name or Guardian's name to make it consistent with that is given in the school record or list of candidates (LOC) submitted by the school may be made and application for correction of 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) True copy of 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.

6. Hence in as much as the petitioner has filed the application for correction of her father's name found in the certificate only after 2 years by her representation cannot be entertained and accordingly it was rejected by the CBSE Board and there is no illegality in the impugned order.

7. Considering the facts and circumstances of the case and also considering the submissions made on either side as the counsel for the respondent has no serious objection in correcting the name of the petitioner's father, this Writ Petition is allowed and the impugned order dated 18.07.2016 passed by the third respondent is quashed and the respondents 3 and 4 are directed to correct the petitioner's father's name in the Petitioner's Secondary School Leaving Certificate vide No.0898425 dated 19.05.2014 and issue the original substituted certificate. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

sm/arr

To,

1.The Secretary,
Government of India,
Ministry of Human Resources Development,
Department of Higher Education,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi.

2.The Chairman,
Central Board of Secondary Education,
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi - 110092.

3.The Assistant Secretary,
Central Board of Secondary Education,
(Regional Office)
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J Block, 16th Main Road,
Anna Nagar (West), Chennai - 600 040.

4. The Principal,
Asan Memorial Senior Secondary School,
Cochin House, No.1, Anderson Road,
Chennai - 600 006.

+1cc to Mr.G.Nagarajan, Advocate in sr.no.46029
+1cc to T.V.Krishnamachari, Advocate in sr.no.45449
+1cc to Mr.Giridhar & Sai, Advocate in sr.no.45416

W.P.No.15142 of 2017

SJ(CO)
NR 14/07/2017



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