

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: February 27, 2017

Judgment delivered on: April 12, 2017

+ W.P.(C) 578/2017

MAZHAR SALEEM CHANDROTH (MINOR)

..... Petitioner

Through: Mr. Chandrachur Bhattacharya, Adv.

Versus

CENTRAL BOARD OF SECONDARY EDUCATION

..... Respondent

Through: Mr. Ashok Kumar, Adv.

CORAM:

HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. The present petition has been filed by the minor petitioner through his father and natural guardian Saleem Chandroth for correcting his name from “*Mazhar Chandroth*” to “*Mazhar Saleem Chandroth*” in all the records of the respondent / CBSE.

2. It is the case of the petitioner that in the birth certificate issued to the minor petitioner, his name is “*Mazhar Saleem Chandroth*”. It is his case that he is currently enrolled in a School by the name of St. Joseph Higher Secondary School, Thalassery

Kannur District, Kerala. Between the years 2005-2015, the petitioner was studying in Al-Falha International School DPS in Jeddah, Kingdom of Saudi Arabia, which School was affiliated to CBSE / respondent herein. On 11th April, 2005 in the school leaving certificate issued by the International Indian School, which was submitted to Al-Falha School at the time of taking admission in the said School, the name of the minor petitioner was shown as “*Mazhar Saleem Chandroth*”. It is the case of the petitioner, his Passport which was issued in the year 1999 depicts his full name, i.e., “*Mazhar Saleem Chandroth*”. Even in the Aadhar Card issued to the minor petitioner his name is shown as “*Mazhar Saleem Chandroth*”. There is no dispute that the certificates issued by the CBSE on 28th May, 2015 and the migration certificate also issued by the CBSE on 2nd May, 2015 shows, the name of the minor petitioner as “*Mazhar Chandroth*”. It is in these two documents, the correction is sought. It is the submission of Mr. Chandrachur Bhattacharya, learned counsel for the petitioner that the relevant Bye-Laws of the CBSE as stood amended on 25th June, 2015, more specifically Bye-Law 69.1 (i) which relates to changes in the name or surname stipulates as under:

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

3. Whereas, Bye-law 69.1(ii) relates to correction of 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 what is given in the school record or list of candidates submitted by the School. It further stipulates, the application for correction in the name of the 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 the institution with the following 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.”

4. It is the submission of Mr. Chandrachur Bhattacharya, learned counsel for the petitioner that by way of this petition, the petitioner is only seeking correction in his name. It is his submission that the actual and correct name of the minor petitioner since birth is “*Mazhar Saleem Chandroth*”. He would rely upon the birth certificate, Passport and Aadhar Card in support of his contention. According to him, the name of “*Mazhar Chandroth*” got entered for the first time in the record of CBSE when the petitioner left Indian International School, Jeddah and took admission in Al-Falha School, Jeddah both are affiliated to CBSE. He states that the school leaving certificate issued by Indian International School, Jeddah which was submitted to Al-Falha School, Jeddah had the

correct name “*Mazhar Saleem Chandroth*”. However, the Class X CCE Certificate issued by CBSE had the wrong name Mazhar Chandroth. The request of the minor petitioner for correcting his name from Mazhar Chandroth to “*Mazhar Saleem Chandroth*” was rejected on a wrong premise that it is a case of change in name and cannot be acceded to. Mr. Bhattacharya would rely upon the definition of words “Change” and “Correction” as defined in Oxford Dictionary to mean as under:

“Correction: - a thing substituted for what is wrong.

Wrong:- Mistaken, not true, incorrect.

Change: - An act or instance of becoming different.”

He made a distinction between the words “Change” and “Correction” that in “Correction” something is wrong, which has to be corrected, whereas in “Change” nothing is wrong. In “Change”, pre-change and post-change both are correct, whereas in “Correction” pre-correction is wrong and post-correction is correct. He would rely upon the judgment of the Bombay High Court in the case of *Mohd. Shahabudin Mohd. Shafiurrahman v. Deputy Direction of Education, Pune, (2013) 4, Maharashtra Law Journal, 383* to submit that correction of spelling would also include the incorrect edition or absence of a part or a component in the full / entire name. In other words, to include the name “*Saleem*” in his name in the certificates issued by the CBSE would be a case of correction and would be covered by the provisions of bye-laws 69.1 (ii).

5. On the other hand, Mr. Ashok Kumar, learned counsel for the respondent / CBSE

would state that the CBSE is not at fault in issuing the certificate to the minor petitioner by depicting his name as “*Mazhar Chandroth*”. According to him, the inclusion of the name of Saleem in the certificate would change the very identity of the minor petitioner. He would state that it is a case of change of name and not a correction as sought to be alleged by Mr. Bhattacharya. According to him, the name of the petitioner as “*Mazhar Chandroth*” in the certificates issued by the CBSE is primarily on the basis of the information furnished by the School concerned to the CBSE. He also states that it is a conceded fact that in the transfer certificate issued by the Al-Falha International School, the name of the minor petitioner was depicted as “*Mazhar Chandroth*”. According to him, it appears the name of the minor petitioner was shown as “*Mazhar Chandroth*” in the record of Al-Falha International School where the minor petitioner was studying when he wrote the Class-X examination in the year 2015 and the same was depicted in the certificates issued by the CBSE. He states that there is no illegality in the certificates issued by the respondent / CBSE to the minor petitioner.

6. Having heard the learned counsel for the parties, the only question which arises for consideration is whether the minor petitioner is entitled to the relief as prayed for in the present petition. There is no dispute that in the Transfer certificate issued by Al-Falha International School on 31st May, 2015, the name of the minor petitioner was shown as “*Mazhar Chandroth*”. A perusal of the said certificate would also reveal that the said name

has been depicted in the certificate on the basis of the information found in the School Register. In other words, the name of the minor petitioner as “*Mazhar Chandroth*” was in the school records. Mr. Ashok Kumar is right in contending that the certificates issued by the CBSE are on the basis of the information as furnished by the School. The School Register being the basis in depicting the name of the minor petitioner as “*Mazhar Chandroth*” by the CBSE in the certificates issued by it, the action of the CBSE cannot be faulted. That apart, Mr. Kumar has also placed before me the record maintained by the CBSE, which shows the name of the minor petitioner as “*Mazhar Chandroth*”. Surely an information supplied by the School, guarantee the correctness of the particulars. The CBSE cannot assume that the particulars would be false or incorrect. The procedure for furnishing the details of the candidates who are writing the examination conducted by the CBSE is a part of the procedure in conducting examinations and publishing the result. In this regard, I would like to reproduce the relevant Para 9 of the judgment of the Supreme Court reported **2003 12 SCC 408 Board of Secondary Education of Assam v. Mohd. Sarifuz Zaman and Ors.** wherein it has held as under:

“9. Undoubtedly, the general power conferred on the Board by Section 24 (1) of the Act is for the purpose of carrying out the provisions of the Act. Under Section 24 (2), clause (d) provides the subject, on which Regulations may be framed, as conducting examinations and publishing the results. Clause (g) provides the subject as ‘conditions under which candidates shall be admitted to the examinations of the Board. It is not disputed, and could not have been, that the application form of a candidate seeking to participate in an examination held by the Board has to be

forwarded by the educational institution wherein he is studying. The application has to be duly, truly and fully filled in. One of the informations required to be given is the age and date of birth of the students. It is common knowledge that the certificate issued by the Board either at the matriculation examination or at the higher secondary level examination mentions the date of birth of the student. Such certificate is invariably accepted as valuable piece of evidence in proof of the date of birth and age of the applicant throughout his career ahead. The courts of law attach a high degree of probative value to the certificate and in the absence of anything to the contrary, the date of birth, as entered in the certificate, is accepted almost as binding. On the result of the examinations conducted by the Board having been published the successful candidates are awarded certificates. The name, father's name, date of birth the institution in which the student has studied and such other particular as are incorporated in the certificate are based on the Information made available by the contents of the application form which is scrutinized, verified and forwarded by the institution, in which the student has studied. All these particulars carry with them a prima facie guarantee of correctness inasmuch as such particulars in the record of the institution are furnished by the applicant himself and the applicant himself fills in and subscribes to the application seeking entry in the examination conducted by the Board. It is difficult to assume that such particulars would be false or incorrect so far as the applicant is concerned. At the same time, this procedure becomes a part of the process of 'conducting examinations and publishing the results' as also the 'conditions under which the candidates shall be admitted to the examinations of the Board' the two subjects covered by clauses (d) and (g) of sub-section (2) of Section 24 of the Act, apart from the generality of the power conferred by sub-section (1) of Section 24. It cannot, therefore, be contended that the matter relating to certificates and as to correction of any entry made therein does not fall within the purview of the power to make Regulations conferred on the Board."

7. In so far as the plea of Mr. Bhattacharya that the relief as sought is for correction in

the name, it would be covered by bye-law 69.1 (ii) by relying on the judgment of the Bombay High Court in **Mohd. Shahabuddin** (supra) is concerned, there is no dispute that the Bombay High Court was concerned with Rules 26.3 and 26.4 of the Maharashtra State SCC and HSC Board which are different from the bye-law 69.1 (ii) with which the request of the petitioner shall be governed with. Rules 26.3 and 26.4 reads as under:-

“26.3 No alteration in the date of birth or other entries in the General Register, including correction of spelling shall be allowed without the previous permission of the appropriate authority. No such alteration in the figure of Date of Birth shall, however, be allowed even with such permission after the students has left secondary school. This shall not however preclude correction of obvious mistakes, that is the date of a particular month which does not exist in the calendar. Before giving sanction to correction spelling or the obvious mistake in figures, the same shall be verified with the original evidence, if any, produced at the time of making the relevant entry. When such an alteration is made on the strength of the written order of the said authority an entry to that effect shall be made in the remarks column of the General Register by writing the number and date of the order of the said authority. The written order shall be preserved as permanent record.

26.4 Application for change or correction of date of birth, name, surname, caste etc. as entered in the General Register shall be entertained from or on behalf of a pupil who is attending a school. Such application shall not be entertained from or on behalf of a pupil, who has left the school, as the same amounts not only to a change in the entries in the General Register but also to a change in the School Leaving Certificate. However, for the purposes like an admission to another educational institution the School Leaving Certificate is relied upon as an evidence for name, surname, caste, date of birth etc., and hence in bona fide cases where wrong spelling of a word or an obvious mistake of the type mentioned in sub-rule (3) above is noticed any time after issue of the School Leaving Certificate and the same is required to be corrected so as to be consistent with the corresponding entries in the General Register of the school or those in the School Leaving Certificate issued by the previous school, such applications shall be entertained. The procedure to be followed in such cases is laid down in Appendix Six.”

8. The bye-law 69.1 (ii) has already been reproduced above which stipulates correction in the 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. Rule 26.3 of the Maharashtra SCC and HSC Rules contemplates "*including correction of spelling*" and these words have been held to be not restricted to spelling error in a name or any part of a name already on record. The High Court held "*correction of spelling*" to include incorrect addition or absence of a part or a component in the full / entire name. Whereas as noted above, bye-law 69.1 (ii) only relates to "*correction in spelling errors, 'factual typographical errors'*". In other words Bye-Law 69.1 (ii) limit the correction to spelling errors or factual typographical errors. Such is not the case of the petitioner inasmuch as he is not seeking correction in spelling errors or factual typographical errors but addition of the word "*Saleem*". In view of variance in the Rules of the Maharashtra Board which have been interpreted by the Bombay High Court and the Bye-Law of CBSE, the judgment as relied upon by Mr. Bhattacharya would not be applicable in the facts of this case.

9. In view of my above conclusion, the case of the petitioner is with regard to change in name and such request is governed by bye-law 69.1(i). Further, it is not the case of the petitioner that the request for the change was made before the declaration of the result. The bye-law 69.1 (i) clearly stipulates that such a request needs to be made before the publication of the result of the candidate. It may also be noted that the vires of the said bye-

law 69.1 (i) is not under challenge. I do not see any merit in the petition. Same is dismissed. No costs.

V. KAMESWAR RAO, J

APRIL 12, 2017

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