

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.15855 of 2018

N.Nithyanandam

... Petitioner

Vs

1. The Central Board of Secondary Education,
Rep. by its Chairman,
Shiksha Kendra,
2,Community Centre,
Preet Vihar,
Delhi 110 301.

2. The Regional Officer,
Central Board of Secondary Education,
Regional Office,
Anna Nagar West,
Chennai 600 040.

3. The Principal
The Hindu Senior Secondary School,
169/83, Big Street, Triplicane,
Chennai 600 005.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first and second respondents to issue all class X certificates, with regard to the Registration Number of the minor petitioner in M/2/19/06916/0054 by changing the name from N.Nithyanandhan to N.Krishnan as per the Tamil Nadu Gazette Publication dated 07.03.2018 and effect Class XII online LOC in the changed name N.Krishnan.

For Petitioner : Mr.G.Jehanathan

For Respondents : Mr.G.Nagarajan (R1 and R2)
No appearance (R3)

O R D E R

The petitioner has come forward with this Writ Petition, seeking for a direction to the first and second respondents to issue all class X certificates, with regard to the Registration Number of the minor petitioner in M/2/19/06916/0054 by changing the name from N.Nithyanandhan to N.Krishnan as per the Tamil Nadu Gazette Publication dated 07.03.2018 and effect Class XII online LOC in the changed name N.Krishnan.

2. The case of the petitioner is that he is studying in third respondent School in Class XII. His name has been changed from N.Nityanandan to N.Krishnan and the name change has been duly effected in Tamil Nadu Government Gazette Publication on 07.03.2018 and the same was also published in news papers viz., Tamil Daily Dinamani and English Daily, Indian Express on 12.03.2018 and 14.03.2018, respectively. It is further stated that the application for change of name was given to the third respondent school in March 2018 for changing of name in all the Class X certificates and the third respondent in turn forwarded the petitioner's application to the second respondent on 20.03.2018. Since, no action has been taken by the first and the second respondents, the petitioner approached the second respondent in-person and he was verbally informed that as per Rule regarding the change in name viz., Rule 69.1(i) of the Examination Bye-Laws of CBSE, the application for change in the name of the student will be considered, if only the change in name i.e. an order by the Court of law, and notification in the Government Gazette before the publication of the results. Since the change in name from N.Nithyanandhan to Mr.N.Krishnan has already been published in Tamil Nadu Government Gazette, the only pre-requirement of the 1st and 2nd respondents for changing the name of the petitioner would be an order from the Court of law. Hence, the petitioner has filed this Writ Petition seeking for the aforesaid relief.

3. The grievance of the petitioner is that if there are two certificates in different names, it may create hurdles for his future employment. In support of his case, he has relied upon a decision of the Delhi High Court in Khushbu Kaushik (Minor) Vs. Central Board of Secondary Education through his chairman and others reported in 2017 SCC online Del 8492, relevant portion of which reads as under:

"16. It is well settled that if there is no dispute as to the facts then the Court is obliged to consider the documents with the affidavit and proceed to pass appropriate directions without relegating the parties to the

remedy of a suit. In this regard it would be apt to quote the decision of the Supreme Court in Gunwant Kaur Vs. Municipal Committee, Bhatinda reported in (1969) 3 SCC 769:-

"(14) The High Court observed that they will not determine disputed question of fact in a Writ Petition. But what facts were in dispute and what were admitted could only be determined after an affidavit in reply was filed by the State. The High Court, however proceeded to dismiss the petition in limine. The High Court is not deprived of its jurisdiction to entertain a petition under Article 226 merely because in considering the petitioners right to relief questions of fact may fall to be determined. In a petition under Article 226 the High Court has jurisdiction to try issues both of fact and law. Exercise of the jurisdiction is, it is true, discretionary, but the discretion must be exercised on sound judicial principles...."

4. The objection raised by the CBSE is that change of name of the petitioner can take effect only prospectively and that change of name retrospectively is not possible.

5. Heard the learned counsel for the petitioner as well as learned counsel appearing for the respondents 1 and 2.

5. It is not in dispute that the petitioner Minor N.Nithyanandan wanted to change his name to N.Krishnan and the name change has been duly effected in Tamil Nadu Government Gazette Publication on 07.03.2018 and there is no provision for getting the name change with retrospective effect. If such a correction is made it will create not only confusion, but there will be legal implications and that no hurdle is going to be caused to the petitioner by holding his 10th standard certificate in the name of N.Nithyanandhan and 12th Standard certificate in the name of N.Krishnan, as in terms of Gazette Notification mentioned supra, both certificates belong to one person.

6. The decision referred to by the learned counsel for the petitioner cited supra may not be applicable to the facts of this case. Firstly, there is no dispute in the proposition. Secondly, the Court has held that if there is no dispute as to

the facts, the petitioner is entitled to get his name changed and Date of Birth corrected in the records.

7. As there is no dispute with regard to change of name, in terms of the Gazette Notification, the respondents are bound to correct the petitioner's name as N.Krishnan, which will take effect from 07.03.2018 and the same has got to be carried out in his 12th standard certificate and the respondent shall carry out the name change as per the Tamil Nadu Gazette Publication dated 07.03.2018 in Class XII online LOC.

This Writ Petition is disposed of with the above directions. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Central Board of Secondary Education,
Rep. by its Chairman,
Shiksha Kendra,
2, Community Centre,
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Chennai 600 040.
3. The Principal
The Hindu Senior Secondary School,
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Chennai 600 005.

+1cc to Mr.G.Jehanathan, Advocate Sr.47199
+1cc to Mr.G.Nagarajan, Advocate Sr.47500

W.P.No.15855 of 2018

srg 7/8/2018