

CWP No.17476 of 2017 -1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.17476 of 2017
Date of decision: 16.4.2018**

Rajinder Kaur and others

...Petitioners

Versus

State of Punjab and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr.P.P.S.Duggall, Advocate for the petitioners.

Mr.H.S.Sitta, AAG Punjab.

Ms.Shivani Sharma, Advocate for respondents No.2 and 3.

Rakesh Kumar Jain, J.

This petition is filed by Rajinder Kaur and Harpal Singh (petitioners No.1 and 2) adoptive parents of Gurdeep Singh (petitioner No.3) who have prayed for the issuance of a writ in the nature of certiorari for setting aside order dated 7.4.2017 passed by the Secretary, Punjab School Education Board in regard to the correction in the educational certificates in the names of adoptive parents by replacing the names of biological parents in view of the fact that petitioner No.3 was adopted by them in the year 2000. In brief, the petitioner No.3 was born to his biological parents, namely, Sukhmander Singh and Paramjit Kaur on 8.6.1996. He was given the adoption by his biological parents to the adoptive parents. Adoption deed was not being registered therefore, petitioners No.1 and 2 filed a civil suit for mandatory injunction. The said suit was not contested by the respondent i.e. Sub Registrar Ferozepur but the petitioners led evidence in support of their case and the Additional Civil Judge (Sr.Divn.) Ferozepur, vide order dated 1.12.2014, decreed the suit

observing that the petitioners/plaintiff therein had successfully proved that the adoption of petitioner No.3 was in the year 2000 and thus issued a direction to the Sub Registrar Ferozepur to register the adoption deed as per rules. After the decree, the petitioners applied for registration of the adoption deed which was duly registered on 7.4.2015. On the basis of registered adoption deed, the petitioners applied for correction in birth certificate which was allowed and birth certificate was issued having the names of the petitioners as father and mother of petitioner No.3. Thereafter, the petitioners made an application to the District Education Officer (Elementary Education) Ferozepur for seeking correction of the name in the certificate of 5th class in respect of parentage of petitioner No.3. Said application was also allowed and new certificate of 5th class examination held in the year 2006, was issued with the change of parentage to petitioner No.3 in which the names of petitioners No.1 and 2 were duly incorporated. Dispute arose when petitioners No.1 and 2 had applied for change of their parentage in the middle standard examination, matriculation examination and senior secondary examination. Since the respondents did not decide the matter one way or the other, therefore, the petitioners served legal notice through the Advocate which also failed and therefore, the petitioners filed Civil Writ Petition No.14096 of 2016 which was disposed of vide order dated 12.8.2016 with the direction to the Chairperson/Chairman, Punjab School Education Board, District SAS Nagar, Mohali, Punjab to look into the matter and decide the same. Thereafter on 7.4.2017, the impugned order was passed by respondent No.3-Secretary, Punjab School Education Board, SAS Nagar, Mohali only on the ground that the adoption deed is not in accordance with the Hindu Adoption and Maintenance Act, 1956 (for short 'the Act').

Counsel for the petitioners has submitted that biological parents of

petitioner No.3 have already expired, therefore, present petitioners No.1 and 2

are the parents of petitioner No.3, who have already obtained decree from the civil court in which civil court has held that petitioner No.3 was duly adopted by petitioners No.1 and 2 in the year 2000 and thus, issued a direction to the respondents to register the adoption deed as per rules which was also registered on 7.4.2015.

He has referred to Section 12 of the Act in which it is provided that an adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family.

Counsel for the petitioners has thus submitted that the petitioner No.3 has no connection with the family of his biological parents and has become the son of his adoptive parents for all intents and purposes. It is further submitted that if the school certificates of middle, matriculation and senior secondary examination are not corrected then there would be an anomaly in the certificates of the petitioners because in 5th class examination certificate his parents are petitioners No.1 and 2 whereas in 8th, 10th and 12th examination certificate, his parents are his biological parents. In reply, the respondent-Board stuck to the stand on the ground that he was adopted at the age of 4 years but the adoption deed was registered on 17.4.2015 which is not in accordance with Section 10(IV) of Hindu Adoption and Maintenance Act, 1956.

After hearing learned counsel for the parties and taking into consideration the facts and circumstances discussed above, I am of the considered opinion that there is no substance in the argument of the

observed that petitioner No.3 was adopted in the year 2000. Since there was no dispute that at the time of adoption he was 4 years of age and the clerical mistake which occurred at the time when parent's name was mentioned in the School record of petitioner No.3 which got reflected in the certificates of 8th, 10th and 12th class, otherwise for all intents and purposes petitioner No.3 is the child of his adoptive parents. Moreover, by virtue of the order of the civil court, adoption deed has already been registered and petitioners No.1 and 2 have also deposited Rs.8300/- for the purpose of carrying out necessary correction with the School Education Board.

Thus, keeping in view the aforesaid facts and circumstances, there is no dispute raised from any quarter challenging the adoption of petitioner No.3 by petitioners No.1 and 2 and thus objection raised by Punjab School Education Board is totally whimsical and unsustainable.

With the above observations, the petition is allowed and order dated 7.4.2017 is set aside and a direction is issued to the respondent-Secretary, Punjab School Education Board to make necessary correction in the certificates of 8th, 10th and 12th of petitioner No.3 by incorporating the names of petitioners No.1 and 2 as his parents replacing the names of his biological parents.

April 16, 2018
Meenu

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No