

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.16238 of 2018
Date of Decision:14.09.2018

Sanjeev Kumar

. Petitioner

Vs.

State of Haryana and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Mohit Garg, Advocate,
for the petitioner.

Mr.Rahul Mohan, DAG, Haryana.

Mr.Mukesh Kumar Verma, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing the order dated 4.6.2018, passed by respondent No.2, by which prayer made by the petitioner for changing the name of his son from Monish Kumar to Arjun Yadav in the birth certificate has been declined.

In brief, the petitioner is the father of Monish Kumar, now known as Arjun Yadav, who was born on 12.7.2005 at Sachdeva Hospital and Nursing Home, Circular Road, Rewari. Pursuant to his birth, the petitioner applied for his birth certificate on 13.7.2005 in which the name of the newly born was mentioned as Monish Kumar but actually the petitioner named his son as Arjun Yadav, which is mentioned in all his personal record i.e. ration card, school record, aadhaar card etc. etc. It is alleged that the petitioner's son was selected for the State Level Cricket Tournament by the

District Level Committee and at that time he was asked to produce the birth certificate issued by the Municipal Committee, Rewari. The petitioner applied for birth certificate and found that the name of his son, in the birth certificate, has been mentioned as Monish Kumar instead of Arjun Yadav. Since there was an anomaly in the name, therefore, the petitioner applied for correction in the birth certificate but his prayer has been turned down by respondent No.2, vide the impugned order, on the ground that there is no provision either in the registration of Birth and Deaths Act, 1969 [for short 'the Act'] or in the Haryana Registration of Births and Deaths Rules, 2002 [for short 'the Rules'] of making a change in the record of birth and death.

Learned counsel for the petitioner has relied upon various decisions rendered by this Court in the cases of *"Shweta Sharma Vs. State of Haryana and others"* 2011(3) RCR (Civil) 442, *"Amit Munjal Vs. The State of Haryana"* 2018 PLR 226, in CWP No.16865 of 2016 titled as *"Shanti Devi Vs. State of Haryana and others"* decided on 16.11.2016 and in *CWP No.26667 of 2017* titled as *"Baljinder Kaur Vs. State of Punjab and others"* decided on 26.5.2018.

On the other hand, learned counsel for the respondents has submitted that the impugned order has been passed in view of a decision of this Court rendered in *CWP No.5360 of 2014* titled as *"Pawan Kumar Vs. State of Haryana and others"* decided on 07.07.2014.

I have heard learned counsel for the parties and perused the record.

It is evident from the birth certificate (Annexure P-2) that the son of the petitioner was born on 12.7.2005 and his birth was got registered on 13.07.2005 i.e. the very next day, in terms of the Act. At that time, the

petitioner might have thought that instead of mentioning nothing against the name of his son, his name was mentioned as Monish Kumar when the petitioner's son was only one day old but later on he had thought that Arjun Yadav is more suitable name for his son than Monish Kumar. The said name is being used by his son through out which is evident from the documents, attached with the petition, pertaining to his education, aadhaar card, bank account etc. The instructions, issued by the Government that the change cannot be effected at any cost, is not acceptable in view of Section 15 of the Act. In this regard, the judgment relied upon by the learned counsel for the petitioner in the case of *Shweta Sharma (Supra)* would apply with full force which has been followed by this Court in the case of *Amit Munjal (Supra)*. The petitioner cannot be left without a remedy on account of an innocent mistake of giving a name of his son at the time of his birth and later on adopting another one which was found most suitable especially when there is no allegation of any fraud etc. for changing the name of his son.

Thus in view thereof, I am of the considered opinion that the impugned order is patently erroneous and hence the same is hereby set aside and a direction is issued to the respondents to issue the correct certificate of birth to the petitioner bearing the name of his son as Arjun Yadav instead of Monish Kumar by making necessary entries in terms of Section 15 of the Act. The needful shall be done by the respondents within a period of 15 days from the date of receipt of certified copy of this order.

(RAKESH KUMAR JAIN)
JUDGE

14.09.2018

Vivek

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No