

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

CWP No.26667 of 2017
Date of Decision:26.05.2018

Baljinder Kaur

. Petitioner

Vs.

State of Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr. Shakti Mehta, Advocate,
for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

Mr.Sanjiv Soni, Advocate,
for respondent No.3.

RAKESH KUMAR JAIN, J.

The petitioner is aggrieved against the order dated 01.11.2017 passed by respondent No.3 by which her prayer for changing her name from Meena Kumari to Baljinder Kaur in her birth certificate has been declined and her name has been mentioned as Meena Kumari @ Baljinder Kaur.

In brief, the petitioner was born on 7.3.1978 at Bathinda. Her name was mentioned in her birth certificate as Meena Kumari because the registration was done within 3 days after her birth i.e. on 10.3.1978. However, later on she was given the name of Baljinder Kaur by her parents. She has acquired her entire education with the name of Baljinder Kaur and has the same name in her aadhar card, pan card, passport and even in the marriage certificate issued by the Chandigarh Administration under the Chandigarh Compulsory Registration of Marriage Rule, 2012. Her husband Davinder Singh to whom she was married on 3.12.2012 is settled in Italy but

Meena Kumari in her birth certificate instead of Baljinder Kaur. Realizing the mistake, the petitioner filed the necessary application to respondent No.3, who had allowed the application only to the extent that her name would be called Meena Kumari @ Baljinder Kaur instead of Baljinder Kaur.

In the reply filed by respondent No.3 it is averred that the name of the petitioner has been corrected as Meena Kumari @ Baljinder Kaur in the birth certificate in view of a circular dated 16.9.2004 issued by the Government of India, Ministry of Home Affairs.

During the pendency of the writ petition, the petitioner was asked to file affidavit to the effect that she is the only girl child born to her parents and that she has not incurred any civil or criminal liability in the name of "Meena Kumari". The petitioner has filed the affidavit that she has not incurred any civil or criminal liability in the name "Meena Kumari". The only grievance of the petitioner is that instead of mentioning her name in her birth certificate as Baljinder Kaur her name has been mentioned as Meena Kumari @ Baljinder Kaur whereas Meena Kumari is not her nick name.

Learned counsel for the petitioner has also referred to Section 15 of the Registration of Births and Deaths Act, 1969 [for short 'the Act'] to contend that in case of any correction by the suitable entry made in the margin without any alteration of the original entry, the said marginal entry is considered to be the correct entry. Section 15 of the Act read as under: -

"15. Correction or cancellation of entry in the register of births and deaths - If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is

erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add there-to the date of the correction or cancellation.”

Reliance is also placed upon the decision of this Court rendered in the case of ***“Shweta Sharma Vs. State of Haryana and others”*** 2011 AIR (Punjab) 86.

On the other hand, learned counsel for the respondents has submitted that the correction has been made in view of circular dated 16.9.2004. The text of the said circular is reproduced as under: -

“Please refer to your office letter No.SBHI(MR-1)PB-2004/12 dated 2.7.2004 on the above subject. In this connection your attention is invited to this office Circular No.3/2003 forwarded vide No.1/27/2002-VS(CRS) Chandigarh dated 30th July 2004 (Copy enclosed for ready reference) the first case referred in the FR i.e. change in name of Mother comes under the category of errors in substance and can be corrected as

enumerated in the above referred circular.

However, the second case with the change of 'nick name with real name' does not come under this category and could be solved only by adding 'alias' with nick name and written both name in concerned register and certificate."

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

There is no dispute that the petitioner was born on 7.3.1978 and her birth was got registered by her parents within three days thereafter as it is reflected in the birth certificate because the date of registration was 10.3.1978. At that time, the parents of the petitioner might have thought to give her the name 'Meena Kumari'. However, later on she was named as Baljinder Kaur. The petitioner had completed her entire education upto Post Graduation with the name of Baljinder Kaur and has got all the statutory documents like aadhar card, pan card and passport required for her identification and has got married with Davinder Singh with the name of Baljinder Kaur and her marriage certificate is also registered with the same name. It was only when the petitioner had applied for visa to visit Italy to settle with her husband, who is presently living there, the contradiction in her documents was found as her name in the birth certificate is mentioned as Meena Kumari. Though the respondents have made the correction in her name and passed the impugned order dated 1.11.2017 (Annexure P-4) but they have not issued the birth certificate with the name of Baljinder Kaur rather the birth certificate has been issued with the name as Meena Kumari

error on the part of the respondents in passing the impugned order dated 1.11.2017?

Section 15 of the Act deals with such a situation where correction or cancellation of entry in the register of birth and deaths is required. If it is ultimately found by the Registrar that the entry needs to be corrected then he would make suitable entry in the margin without any alteration of the original entry and shall sign the marginal entry at the time of correction or cancellation. According to this provision, the birth certificate should have been issued with the name of Baljinder Kaur only in the margin and not as Meena Kumari @ Baljinder Kaur. Insofar as the circular dated 16.9.2004 is concerned, it only deals with the cases in which there is a nick name with the real name. If there is a nick name then it was ordered to be added with the real name with 'alias' whereas Meena Kumari was never the nick name of the petitioner, therefore, the instructions dated 16.9.2004 are not at all applicable.

Thus in view of the aforesaid facts and circumstances, the present petition is hereby allowed and the direction is issued to respondent No.3 to issue a fresh certificate of birth to the petitioner with her name as Baljinder Kaur and not with the name Meena Kumari @ Baljinder Kaur. It is needless to mention here that respondent No.3 shall issue the necessary certificate in terms of Section 15 of the Act to the petitioner within a period of one month from the date of receipt of certified copy of this order.

26.05.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No

