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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision - 31.01.2018

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W.P.(C) 2029/2017

ALBIN BABY

..... Petitioner

Through Mr.Wills Mathews, Advocate.

versus

CENTRAL BOARD OF SECONDARY EDUCATION & ORS

..... Respondent

Through Mr.Ashok Kumar, Advocate for R-1.

Mr.Ajit Singh Arora with Mr.J.K.Sharma, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The Petitioner, a student of Respondent No.2-school seeks issuance of a direction to Respondent No.1 to correct the error in spelling the name of his mother as appearing in the 'Grade Sheet cum Certificate of Performance' dated 28.05.2015 issued by Respondent No.1. The Petitioner had appeared for his class 10th board examination conducted by Respondent No.1 in the academic year 2014-2015 as a student of Respondent No.2-school. In the Class 10th 'Grade Sheet cum Certificate of Performance' issued by Respondent No.1 on 28.05.2015 the name of his mother was recorded as "Sophiama Baby".

2. The Petitioner states that the first name of his mother is actually spelt as “Sophiamma” and not only does he have his birth certificate but also other documents including her passport and her identity card issued by the Election Commission which record her name as “Sophiamma Baby”. It is the case of the Petitioner that even in the admission form filled by his parents at the time of seeking admission in the Respondent No.2-school his mother’s name was correctly reflected as “Sophiamma Baby”.

3. It is the case of the Petitioner that when he obtained the 'Grade Sheet cum Certificate of Performance', he learnt that the first name of his mother had been recorded incorrectly as "Sophiama". It is submitted that upon learning the mistake in the recording of the name of his mother the Petitioner's father had submitted an application to the Respondent No.2-school who upon realising the mistake in the certificate issued by Respondent No.1 had duly forwarded the request made on behalf of the Petitioner’s father to Respondent No.1. Whilst forwarding the application for the correction of the Petitioner’s Mother’s name, the Respondent No.2 school had also annexed the duly attested admission forms of the Petitioner to Respondent No.1 but no response was received from the CBSE. In these circumstances the Petitioner has approached this court.

4. In response to the Writ Petition both Respondent No.1 and Respondent No.2 have filed separate counter affidavits. While Respondent No.2 has clearly admitted that the name of the Petitioner’s mother had been correctly recorded as “Sophiamma Baby” in the Admission form by the Petitioner’s parents at the time of

seeking admission to the school and that there had been an inadvertent error on the part of the school while sending the completed form to Respondent No.1 .

5. On the other hand, Respondent No.1 has while opposing the Petition, has placed reliance on Rule No. 69.1(ii) of its Examination Bye-Laws and contended that an application for correction of the name of candidate/ father/ mother/ guardian can only be considered within one year of declaration of the results. A tabulation of the said rule as applicable on 28.05.2015 when the petitioner's 'Grade Sheet cum Certificate of Performance' was issued and the amended rule post 25.06.2015 is reproduced below:-

III. AMENDMENT IN RULES 69.1 AND 69.2(iv) OF THE EXAMINATION BYE-LAWS RELATING TO CORRECTION & CHANGE IN NAME AND PERIOD FOR CORRECTION IN DATE OF BRITH

Rule No.	Existing Rule	Amended Rule
69.1(i)	Change in name of candidate/Father/Mother/Guardian once entered in the Board's record at any stage while studying in Class IX, X, XI, XII or thereafter, within a period of ten years from the date of issue of first such document shall be considered on written request of the candidate (not minor)/father/mother/guardian duly forwarded by the Head of the Institution supported by the following documents: a) Original copy of two newspapers (daily English/Hindi newspaper at National level & daily newspaper in a vernacular language circulated in the	Applications regarding changes in name or surname of candidates may be considered, provided the changes have been admitted by the Court of law and notified in the Government Gazette before the publication of the result of the candidate.

	locality), in which the desired change has been published. b) Original Affidavit duly sworn before the Judicial Magistrate, First Class/Metropolitan Magistrate/Executive Magistrate/Sub Divisional Magistrate. c) Original Copy of Publication in Government Gazette. d) Payment of prescribed fee. e) True Copy of admission form filled in by the parents duly updated as per Gazette Notification of desired change and duly attested by the Head of the concerned institution. f) True Copy of School Leaving Certificate of the previous school submitted by the parent/candidate at the time of admission and updated as per Gazette Notification of desired change, duly attested by the Head of the concerned institution. g) True Copy of the page of admission and withdrawal register of the school where the entry has been made in respect of candidate showing updation as per Gazette Notification of desired change, duly attested by the Head of the concerned institution.	
69.1(ii)	Correction in 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 to make it consistent with what is given in the school record or list of candidates (LOC) submitted by	Correction in 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 to make it consistent with what is given in the school record or list of candidates (LOC) submitted by the school

	the school may be made. Application for correction in name of Candidate/Father's/Mother's/Guardian's name will be considered only within ten years of the date of declaration of result provided the application of the candidate is forwarded by the Head of Institution with the following attested documents: a) True Copy of Admission forms(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.	may be made. Application for correction in name of 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 Institution with the following attested 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.
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6. Having considered the rival submissions made on behalf of the parties and having perused the documents on record, one thing that becomes crystal clear is that this is a case involving an error in the spelling of the name of the petitioner's mother which has occurred without there being any fault on the part of the Petitioner or his parents. Respondent No. 2 has clearly admitted the fact that there was

an inadvertent error on their part in sending the Petitioner's form to CBSE with the misspelt name of the Petitioner's mother. Even though reliance has been sought to be placed by the Ld. Counsel for Respondent No. 1 on its amended examination Bye-Laws which were notified on 25.06.2015, it is not denied that the mistake in the present case pertains to a certificate issued prior to the notification of the amended bye laws. The ld. counsel for Respondent No.1 has not been able to deny the fact that, as per the bye laws prevailing prior to 25.06.2015, a period of 10 years was available for seeking correction of names and the certificate in question having been issued on 28.05.2015.

7. However without going into the question whether the curtailed period of limitation of 1 year provided in the Bye-Laws, as amended on 25.06.2015, could be made applicable to the present case where the certificate in which correction is sought was issued on 28.05.2015 i.e. prior to the coming into force of the amended Bye-Laws, I am of the considered opinion that in view of the undisputed position that the spelling mistake has occurred only because of the fault of the respondent no.2 school, the petitioner's academic career cannot be jeopardised. I, therefore, reject the objection raised by Respondent No. 1 that the correction as sought for by the petitioner cannot be allowed in view of the limitation of 1 year provided in amended Rule No. 69.1(ii) of the Examination Bye-Laws.

8. Thus, in the aforesaid facts and circumstances the present petition is liable to succeed and accordingly a direction is issued to Respondent No. 1 to rectify the error in the name of the Petitioner's

mother in the 'Grade Sheet cum Certificate of Performance' dated 28.05.2015 issued by Respondent No. 1, which shall now read as 'Sophiamma Baby' instead of 'Sophiama Baby'. The needful be done within two weeks.

9. The Writ Petition is allowed in the above terms, with no order as to costs.

JANUARY 31, 2018
Keshav

(REKHA PALLI)
JUDGE



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