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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 216/2017

UNIVERSITY OF DELHI Appellant
Through: Mr. Sourabh Banerjee, Advocate.

versus

TARUN GOYAL Respondent
Through: Mr. Vikram Saini and Ms. Chhaya
Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER
% **11.01.2018**

CM APPL. 12473/2017 (*for condonation of delay*)

For the reasons mentioned in the application, the delay in filing the appeal is hereby condoned.

CM stands disposed of.

LPA 216/2017 and CM APPL. 12472/2017 (*for stay*)

The appellant, i.e. University of Delhi (hereinafter referred to as 'the University'), is aggrieved by an order of the learned Single Judge which allowed the writ petition filed by the respondent (hereinafter referred to as 'the writ petitioner').

It is contended that the relief directed is contrary to the University's policy and directly infringes upon a decision making

power and as such is based on no principle of law. The writ petitioner had approached this Court under Article 226 of the Constitution of India seeking a direction that his name in the University records should be henceforth changed to “Tarun Goyal” instead of existing name i.e. “Tarun Kumar”.

The brief facts are that the writ petitioner completed his schooling by appearing and passing in the secondary and senior secondary school examinations in 2005 and later in 2007. In both those exams, the school and concerned affiliated Board i.e. Central Board of Secondary Education (hereinafter referred to as ‘CBSE’) reflected his name to be “Tarun Kumar”. He secured admission in a college in the Delhi University under the same name and subsequently graduated in the academic year ending 2011. He claims to have changed his name to “Tarun Goyal”, and thereafter, approached the University for correction of its records. The University rejected his representation; writ petitioner approached this Court under Article 226 of the Constitution of India.

While resisting writ proceedings, the University relied upon Executive Council Resolution no.48 which stipulated that:-

“5.Application of person who is not connected with the University of Delhi as a student at the time of submitting the application for change of name is not entertained.”

This Resolution i.e. No.48 was made on 03.11.2012. The writ petitioner had approached this Court in 2015 [W.P.(C) 554/2015].

During the pendency of the proceedings, the writ petitioner pointed out, in the course of his submissions, that the request made by two other students for change of the name in its records was accepted in April, 2015. Pursuant to the orders of this Court dated 19.02.2015, in a previous writ petition filed by the writ petitioner in W.P.(C) 554/2015, the Executive Council Resolution i.e. No.16 (dated 28.05.2015) was passed, which provided as follows:-

“6.Application for change of name will be entertained only when the applicant is a student of University of Delhi at the time of applying for change of name.

Application for change of name from a person who is not a student of the University at the time of submission of application or who has already completed his/her course of study shall not be considered.”

The University contended before the learned Single Judge that neither its previous policies nor the policy formulated during the pendency of the proceedings assured correction of name, which was asserted as a right by the writ petitioner, but, rather stipulated that any application or request for change of name to be made by the concerned individual during the time she or he was a student with the institution, affiliated college or University concerned.

The learned Single Judge however, by the impugned order rejected the University's contentions, primarily relying upon the past instances – especially the two cases where the name change was carried out by the University. The learned Single Judge also cited this

Court's order in W.P.(C) 623/2013 (Radhika @ Rajwanti vs. University of Delhi and Anr.) and W.P.(C) 4424/2013 (Rajneesh @ Rajani Kant vs. Campus of Open Learning). The learned Single Judge also noticed that the CBSE had accepted the writ petitioner's name change application and corrected certificates were issued to him for the class-10 and class-11 examinations.

Mr. Banerjee, learned counsel appearing for the University contends that the learned Single Judge fell into error in directing the relief which could not be claimed as a matter of right. It was submitted that once the University formulated a policy which curtailed the discretion of its Executive Authorities, or rather regulated it, to ensure that name change applications were to be dealt with at the time the individual was a student, the question of any student, who had appeared in any examination in the past or have graduated from the University, applying for name change on the basis of a subsequent unrelated name change procedure, could not have been entertained. As such, the learned Single Judge did not rest the directions upon any principle. Learned counsel relied upon the judgment in the case of *Union of India and Ors. vs. M.K. Sarkar*, (2010) 2 SCC 59 to say that the mere fact that in the past the Court had directed a certain kind of relief, which is otherwise impressible, does not give a right to claim such relief, as long as it is not founded on any right or principle or exercise of the executive authority.

Learned counsel for the writ petitioner contended that the name change was essential and emphasises that the CBSE accepted the

name change application in this case. It was highlighted that the university had proceeded to accept the decision of this Court in the past, atleast in the two instances cited before the learned Single Judge. In these circumstances, the reliance based upon a policy formulated during the pendency of the proceedings, was unwarranted. He therefore urged this Court not to disturb the learned Single Judge's directions in the impugned judgment.

It is evident from the above discussion that the policy which existed in 2012 clearly stipulated that application of someone unconnected with the University "as a student at the time of submitting" it i.e. the application, would not be entertained. The University asserts – a fact, which is not disputed that the position which existed prior to this, too, was much the same. What impelled the University to clarify its position with respect to name change requests through Resolution no.16 on 28.05.2015, were two directions issued by this Court in the cases of *Rajneesh* and *Radhika* (*supra*).

In the opinion of this Court, the University is correct in contending that the learned Single Judge did not rest his conclusions upon any legal principle in holding that it was under an obligation to change the name as and when requested by an individual student, regardless of whether they continued on their rules or otherwise. It cannot be disputed that whether to change the name on a degree, certificate or any other document, issued by the University, is dependent upon the policy adopted. In the absence of a policy,

the decision to accept or not to accept the request of name change is discretionary. In the absence of any spelt out policy, what can be a dispute is the manner in which it chooses to exercise its discretion. However, in this case, the writ petitioner had graduated in 2011 – at that stage, the name reflected in all the records of the University was “Tarun Kumar”, he does not dispute it; in fact, the school certificates too reflect that name. This is not a case of correction of name; clearly the writ petitioner chose to change his name in 2014 and then returned to the University with a request that its certificate should reflect the subsequent development. Having regard to this, the University’s position in declining to entertain the request based upon the Resolution no.48 of 2011 cannot be characterised as arbitrary. This Court is unaware of the fact situation in *Radhika’s* and *Rajneesh’s* cases (*supra*). In both those cases, the Court appears to have been approached in 2013. Whether the Court took note of the Resolution no.48 or the position, as it existed prior thereto, is unknown. What is apparent is that the Court did direct the University to give the relief, which it did. In the light of those directions, it chose to clarify those as Resolution no.16 of 2015.

Judgment in the case of Mr. M.K. Sarkar (*supra*) – as indeed several other judgments have emphasised and iterated that the grant of relief, based upon no principle or wrong appreciation of the correct position, which is subsequently discovered to be incorrect, does not form the basis for an enforceable right. That principle, in the opinion of the Court, squarely applies to the circumstances of the case. The

learned Single Judge therefore was wrong in holding that the University was under an obligation to extend the same relief as was done in the case of others.

Ordinarily, the above conclusion would have resulted in disturbing the directions issued by the learned Single Judge to the University. However, in the peculiar circumstances of this case, we notice that all Authorities such as the CBSE and all other local Authorities appear to have accepted the name change application which has resulted in wholesale change/amendment of the writ petitioner's name and identity in all relevant documents. In these circumstances, it would be inappropriate for the Court to interfere with the directions issued by the University. The same is allowed to stand for this case.

In the light of the above discussion, the appeal is allowed to the extent that the correct position in law enunciates; however, the direction issued by the learned Single Judge is not interfered with and is allowed to stand.

The appeal is disposed of in above terms alongwith pending application.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 11, 2018

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