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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision : April 16, 2018

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LPA 705/2017 & CM APPL. 39803/2017

ARYA KARIYATIL CHENDAKERA

..... Appellant

Through Mr. Swastik Singh and Mr. Atul
Singh, Advs.

versus

CENTRAL BOARD OF SECONDARY EDUCATION & ANR.

..... Respondents

Through Mr. Atul Kumar, Adv. for R-1.
Mr. Thomas, Adv. for R-2.

CORAM:

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

J U D G M E N T

A.K. CHAWLA, J.

This Letter Patent Appeal has come to be preferred assailing the order dated 06.09.2017 passed by the Id. Single Judge dismissing WP(C) 7873/2017 filed by the appellant seeking correction(s)/amendment(s) in her name as also in the names of her mother and the father in the records of the respondents and the class X Grade Sheet cum Certificate of Performance, hereafter "the subject document" dated 28.05.2016 issued by the first respondent, hereafter "CBSE".

2. It is the case of the appellant that she was a student of the 2nd respondent, hereafter "the school" and studying in class XII, while CBSE was responsible for the conduct of the Examinations and the issuance of the subject document. According to the appellant, her own correct name as also that of her parents was Ms.Arya Kariyatil Chendakera, Sh. Kariyatil Chendakera Deleep Kumar and Smt. Kavitha Deleep but on account of inadvertence came to be recorded as Arya K C, K C Dilip and Kavitha Dilip in the school records and that has resulted into issuance of the subject document. To support the plea, the appellant asserts that the correct names of her parents are so recorded even in their respective passport and the Aadhar Card and that, in the event, the necessary corrections are not carried out, it would result into unnecessary hardships. The Single Judge dismissed the petition observing that the relief claimed could not be granted as it amounted to change of name as envisaged under CBSE Bye-law 69.1(i) of the Examination Bye-laws 1995 and that, the change of name is sought beyond one year after the declaration of the result. In support of such plea, reliance was placed upon the judgment of the Division Bench of this Court in LPA no. 41/2017 *Aditya Srivastava (Minor) through natural guardian mother Vs. Central Board of Secondary Education & Anr.*

3. The appellant questions the impugned order on the premise that she merely seeks a correction in the names and to which effect a gazette notification dated 20.05.2017 was already issued

and that the correction sought falls within the purview of amended Bye-law 69.1 (ii) and not 69.1(i). It is thus the plea of the appellant that the Id. Single Judge fell into error in concluding that the appellant was actually seeking change of names rather than correction. In support of such plea, appellant has placed reliance upon the judgment of the Division Bench of this Court in W.P. (C) 1672/2017 *Khushbu Kaushik vs. Central Board of Secondary Education and Anr.*

4. The CBSE opposes the appellant's submissions stating that the impugned judgment is in order and does not call for interference. It highlights Bye-law 69 to say that certificates cannot be amended time and again at the whims of the candidates and this causes administrative inconvenience.

5. Undisputedly, vide notification dated 25.06.2015, CBSE carried out additions/amendments in its Examination Bye-laws and thereunder, it, *inter alia*, carried out amendments to Bye-law nos. 69.1(i) and 69.1(ii) relating to change(s) and correction(s) in the names. Relevant extracts thereof, are as under :

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	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.

(not minor)/
father/mother/guardian duly
forwarded by the Head of the
Institution supported by the
following documents :

.....

- 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 the school may be made.
- 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 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:

.....

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 :

.....

6. A bare perusal of the afore-said bye-laws shows that the change(s) and the correction(s) as provided for, are to be dealt with distinctly. It therefore necessarily follows that to deal with any such application, one has to first consider as to whether the application made is for a change or correction in the name(s). In this perspective, when one adverts to the case in hand, it is seen

that the application made by the appellant was actually for corrections and not for any change in the name(s). What is sought, put in a simple manner, is as follows :

	Recorded name	Proposed to be recorded
Appellant	Arya K C	Ms. Arya Kariyatil Chendakera
Father of appellant	K.C. Dilip	Sh. Kariyatil Chendakera Deleep Kumar
Mother of appellant	Kavitha Dilip	Smt. Kavitha Deleep

7. A careful look into the names appearing in the subject document and the amendments proposed only leads to the conclusion that appellant, in effect, seeks to furnish the full name, surname, and the middle name of the respective persons. In other words, the abbreviations used for the name, middle name or the surnames are only sought to be done away with. Such corrections in the school records and 'the subject document' in our considered view by no means can be construed to be a change of name. Though, the surname is sought to be corrected/amended as 'Deleep' instead of 'Dilip', it also has the effect of correction only rather than a change. It is thus seen that the application made by the appellant was actually for the correction in names rather than for any change. The reliance placed upon *Aditya Srivastva's case (supra)* by the Id. Single Judge, in our considered view, was misplaced inasmuch as, in

that case, the appellant had sought change in name from 'Randhir Srivastava' to 'Aditya Srivastava' and for the purpose, reliance was placed upon un-amended Bye-law 69.1(i). That is not the position in the case in hand. The instant case, in our considered view, falls within the category of Bye-law 69.1(ii), which deals with the correction in the names. It is also not the case nor was it pointed out during the hearing that the identity of either the appellant or her parents or their relationship is in dispute. What is asserted to by the appellant, in fact, also finds support from the gazette notification for correction in names issued on 26.05.2017 as also the respective passports and the Aadhar Card, which are duly supported by an affidavit. It is thus clear that the appellant's application was required to be considered for correction in name as provided for under Bye-law 69.1(ii). The plea urged to the contrary in the counter affidavit filed on behalf of CBSE is therefore, wholly misconceived and meritless.

8. Though, apparently, there is a delay of about four days in making of the application for the correction in the names inasmuch as, the date of publication of the subject document in the official gazette is 26.05.2017 and the application came to be made by the appellant to the school on 30.05.2017, at this stage, when we are of the opinion that the application if made within time, was required to be allowed and the stand taken by the CBSE regarding applicability of Bye-law 69.1(i) instead of Bye-law 69.1(ii) is wholly untenable, we do not consider it necessary to subject the appellant to the rigors of making a fresh

application seeking correction in the name(s) in the records of the school or the CBSE while seeking condonation of delay of 4/5 days, as may be permissible. Moreso, for the reason that the appellant is yet to appear for another Board Examination to be held by CBSE for 10+2 and that shall call for issuance of another Grade Sheet/Certificate.

9. In view of the foregoing, it is directed that the respondent CBSE shall carry out the necessary corrections in the name(s) of the appellant as also her parents in their respective records and shall consequentially also issue a modified/corrected Grade Sheet cum Certificate of Performance to the appellant within four weeks.

10. The appeal is allowed in the above-said terms. The pending application also stands disposed of. No order as to costs.

A. K. CHAWLA, J

S. RAVINDRA BHAT, J

APRIL 16, 2018

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