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

Date of decision: 31st October, 2019

+ W.P.(C) 5265/2019

REKHA JAIN

..... Petitioner

Through: Petitioner in person

versus

SECRETARY OF MINISTRY OF HUMAN RESOURCES

DEVELOPMENT AND ANR.

..... Respondents

Through: Mr. Sandeep Tyagi, SCGC for
respondent no. 1

Mr. Amit Bansal and Ms.
Seema Dolo, Advs. for
respondent no. 2

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

31.10.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This so-called Public Interest Litigation (PIL) has been preferred with the following prayers:-

“(a) Writ, order or direction in nature of Mandamus or any other appropriate writ, order or direction for taking the cognizance on Central Board of Secondary Examination BYE-LAWS 1995- RULE 69(i) existing before amendment notification date 25/6/2015 and office order date 18/11/2015 for the

all those candidates whose result declared between 26/06/2005 to 24/6/2015.

(b) Any other order as the Honorable Court may deem fit and proper in the facts and circumstances of the case be also passed in favour of the Petitioner in the interest of justice.

(c) Cost of the present petition be also allowed in favour of the petitioner and against the respondent.”

2. Having heard petitioner in person and looking to the facts and circumstances of the case, it appears that much grievances have been ventilated about the Examination Bye-laws of Central Board of Secondary Education (CBSE), more particularly Rule 69 thereof. It is submitted by the petitioner in person that initially as per the aforesaid bye-laws, any candidate, studying in 9th, 10th, 11th and 12th standards or thereafter can apply for change/correction in the name of a candidate or parents' name within a period of 10 years. Subsequently, as per the amended bye-laws, the said period was reduced to one year and that too for correction only. After that change in the name thereafter was not permissible. It is further submitted by the petitioner that earlier when the period of ten years was granted and now the same has been reduced to one year, therefore, advance notice should have been given to those candidates, who wanted to apply for change/correction in their names etc.

3. We have also heard counsel for the respondent no. 2, who has submitted that as per the earlier examination bye-laws of CBSE, both

correction as well as complete change of name of the candidates, parents etc. was permissible, in fact had given rise to several litigations. Consequently, an amendment was taken place in the year 2015 in the aforesaid bye-laws, more particularly in Clause 69 thereof and as per amendment complete change in the name of a candidate or parents etc. was not permissible after declaration of the result. Moreover, as per the amended CBSE bye-laws of the year 2015, the correction in the name of a candidate or parents etc. was permissible within a period of one year of the issuance of the mark-sheet of standards 10th and 12th. Thus, as per the amended bye-laws of the year 2015 if any error is committed by CBSE, which may be a typographical error, the same could be corrected within a period of one year. But in case of complete change in the name, after the examination result has been declared and the mark-sheet is given, the same was not permissible. It is further submitted by the counsel for the respondent no. 2 that there was further amendment in the year 2018 in the bye-laws by which period of one year is now extended upto five years for correction the name. So far as complete change of name is concerned, there is no provision for change in the name after the mark-sheet is issued. It is submitted by counsel for the respondent no. 2 that those candidates, who seek complete change in their names, can always submit their original mark-sheets along with the gazette publication of the change in name to the concerned authority or wherever they are applying either for further study or for getting employment or for any other purposes. Thus, as on date correction in the name is permissible upto five years from the issuance of the mark-sheet, but complete change of name in the mark-sheet is now not permissible under the existing bye-laws of the year

2018. It is further submitted by the counsel of the respondent no. 2 that typographical error can be corrected within a period of five years. This period is more than reasonable for any candidate desires to apply for correction. Hence, this writ petition cannot be entertained. It is further submitted by the counsel for the respondent no. 2 that as and when any aggrieved candidate approaches the respondent no. 2 or to this Court, the decision can be taken in accordance with law and the facts of that particular case.

4. Having heard petitioner in person and counsel for the respondent no. 2 and looking to the facts and circumstances of the case, we see no reason to entertain this writ petition mainly for the following reasons:-

- i) As per the earlier Examination Bye-laws of CBSE of the year 1995, especially Rule 69 thereof, both, change of name and correction of name of a candidate, who has cleared his/her examination of standards 10th and 12th was permissible, provided that they would apply within a period of ten years. The said provision is at page 17 to the memo of this writ petition.
- ii) It further appears from the facts of the case that aforesaid Examination Bye-laws were amended by CBSE in the year 2015 and the period of ten years for correction of the name was curtailed upto one year. Thus, any candidate, who has cleared his/her examination of standards 10th and 12th, could apply to CBSE for correction of their names. As per this amendment in the year 2015, complete change of name of a candidate or parents, after the mark-sheet is issued, was not permissible.
- iii) There was further amendment in the aforesaid examination bye-laws of the CBSE in the year 2018. According to this, correction in

the name of a candidate, parents etc. is permissible upto five years from the issuance of the mark-sheet of standards 10th and 12th. However, complete change in the name is not permissible after declaration of the result.

iv) Petitioner has submitted that prior to 2015, both, correction as well as complete change in the name was permissible for ten years; therefore, the candidates right had crystallized for applying upto ten years. This right has been withdrawn looking to the amendment took place in the year 2015. By the amendment of 2015, the period is curtailed upto one year. We are not in agreement with this contention of the petitioner mainly for the reason that correction in the name is a procedural aspect. Whenever any procedure is to be followed, it ought to be followed as per the latest provisions of rules, regulations and bye-laws. Thus, if the correction in the name is permissible only upto one year, then such candidates, who are applying after one year from the date of issuance of the mark-sheet of standards 10th and 12th, their names cannot be corrected. We see no reason to interfere with this amendment carried out in the year 2015 by the CBSE.

v) The aforesaid provisions of the year 2015 is further amended in the year 2018 and the period of correction in the name is extended upto five years. Thus, the CBSE has no power to correct the names of the candidates or parents etc., if any candidate is applying after the aforesaid limitation period is over.

vi) It ought to be kept in mind that power under Article 226 of the Constitution of India is not being curtailed by the aforesaid bye-laws. Thus, as and when any individual case is brought to the notice of this Court by way of individual petition, all care can be taken by this

Court while exercising power under Article 226 of the Constitution of India, looking to the peculiar facts of that case.

5. In view of the aforesaid observations, there is no substance in this writ petition. Liberty is reserved with the candidate(s) to prefer litigation in their individual capacity, so that the peculiar facts of that case can be taken care of. With the aforesaid liberty, this writ petition is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

OCTOBER 31, 2019

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