GAHC010043522020

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1815/2020

ARABINDA RABHA
S/O-MADHAB CH RABHA, R/O- LAKHIMI NAGAR PATH, DISPUR, GUWAHATI- 6, P.S- DISPUR, DIST- KAMRUP (M), ASSAM

VERSUS

THE CENTRAL BOARD OF SECONDARY EDUCATION (CBSE) AND 2 ORS REP. BY ITS SECRETARY, 2, COMMUNITY CENTRE, PREET VIHAR, NEW DELHI- 110301

2:THE REGIONAL DIRECTOR
CBSE
SILPAGRAM ROAD
NEAR SANKARDEV KALAKHETRA
PANJABARI
GUWAHATI- 781037

3:THE PRINCIPAL
DELHI PUBLIC SCHOOL
GUWAHATI
N H 37
AHOMGAON
GUWAHATI- 35
KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. S SAIKIA

Advocate for the Respondent : SC, CBSE

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 20-11-2020

Heard Mr. S Saikia, learned counsel for the petitioner. Also heard Ms. R Borah, learned counsel for all the respondents.

2. The son of the petitioner had passed out the CBSE Class X examination held in the year 2019 and after passing out the said examination changed his name from Bhavit Rabha to Amlaan Jeet Rabha. In the circumstance, an application was made before the CBSE authorities that the certificate issued to the petitioner be corrected and his name be now substituted as Amlaan Jeet Rabha. On the application being rejected, this writ petition is instituted.

3. Ms. R Borah, learned counsel for the respondent CBSE has relied upon Rule 69.1(i) of the examination bye-laws which provides that for a change in the name or surname of a candidate, the changes would have to be admitted by a Court of law and notified in the Government Gazzette before the publication of the result of the candidates.

4. Ms. Borah, states that even if the claim of the petitioner is subsequent to the publication of the result, but still in order to entertain the change in the name, the aforesaid two conditions would have to be satisfied i.e., the change would be required to be admitted by a Court of law and also the same would have to be notified in the Government Gazette.

5. Mr. Saikia, learned counsel for the petitioner by referring to the Gazette Notification dated 08.05.2019 had brought to the notice of the Court that as per public notice dated 25.04.2019, it was notified that the son of the petitioner had changed his name from Bhavit Rabha to Amlaan Jeet Rabha by swearing an affidavit in the Court of Notary Kamrup, Assam. From the aforesaid, we are convinced that one of the conditions of the requirement to change the name that is publication in the Government Gazette has been satisfied. But as regards the condition of being admitted by a Court of law, Mr. S Saikia, learned counsel relies upon the judgment of High Court of Judicature for Rajasthan in its Bench at Jaipur rendered in S.B.Civil Writ Petition No.17031/2016 in Pinki Johari W/o.Sri Vinod

Johri Vs. Secretary, Central Board of Secondary Education (CBSE) Delhi and Others wherein by the judgment dated 20.02.2017, the Rajasthan High Court has taken note of the provisions of Rule 69.1(i) of the examination bye-laws of the CBSE, but having taken note of only the Gazette publication without taking note of the requirement of admission by a Court of law had accordingly remanded the matter to the respondents in the CBSE with a direction to change the name of the petitioner therein.

6. It is the requirement of the bye-laws that the two conditions would have to be satisfied i.e. firstly an admission by a Court of law regarding change of name and regarding publication of the change of name in the official gazette. The Rajasthan High Court while arriving at its decision in Pinki Johari (supra) had not taken into consideration the other condition of the requirement for an admission by a Court of law as regards the change of name, but had taken into consideration only the condition that there was a publication of a change of name in the official gazette. As both the conditions were not taken into consideration, we are unable to convince ourselves to accept the same view as taken by the Rajasthan High Court.

7. Accordingly, we require the petitioner to approach the appropriate Court of law for a declaration that there was a change in the name of the son of the petitioner from Bhavit Rabha to Amlaan Jeet Rabha and upon such declaration being obtained the same be produced before the CBSE authorities.

8. As the condition of Gazette notification has already been satisfied, the CBSE authorities shall take note of both the declaration of the Court of law, if obtained by the petitioner and also the Gazette notification and do the needful as may be required under the law.

9. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant