

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.10.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.11529 of 2020

WMP No.14094 of 2020

Minor M.K.Anuvarshini

..Petitioner

Daughter of S.R.Krisshnakumar

Rep by her Mother & Natural Guardian.

.Vs.

1. The Head of the Department,
Controller of Examination,
Central Board of Secondary Education,
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi - 110 092.

2. The Regional Officer,
Central Board of Secondary Education,
Chennai Region,
New No.3, Old No.1630 A,
"J" Block, 16th Main Road,
Anna Nagar West,
Chennai 600 040.

3. The Deputy Secretary,
Controller of Examination,
Central Board of Secondary Education,
Chennai Region,
New No.3, Old No.1630A,
"J" Block, 16th Main Road,
Anna Nagar West, Chennai 600 040.

4. The Principal,
The Paavai Vidhyashram CBSE School,
The Paavai Group of School,
Paavai Vidhya Nagar (West Campus),
NH-7, R.Puliyampatti,
Puduchatram, Namakkal District - 637 018

...Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus to call for the records pertaining to the proceedings of the 2nd respondent in CBSE/RO(M)/CORRN/2019/190607 dated

27.07.2020 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents 1 to 3 to issue afresh class X mark statement certificate by complying errors in parent's name and direct the respondents 1 to 3 to permit the petitioner to change parent's name in correction of list of candidates portal for the class XII examination, 2021.

For Petitioner : B.Siddeswaran

For Respondents: Mr.Nagarajan
Standing Counsel for CBSE

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 27.07.2020 and for a consequential direction to respondents 1 to 3 to issue a fresh mark statement for Class 10 after carrying out the corrections in the parents name of the petitioner.

2. The case of the petitioner is that her mother's name has been mentioned in the mark statement as "Maheshwari.K" and the same has to be changed into "Maheswari.K". Likewise, the name of the father has been mentioned as "Krishna Kumar.S.R" and the petitioner wants it to be changed as "Krisshnakumar.S.R". The petitioner requires this change in the name of her parents, since it will have a cascading effect and the petitioner will find it difficult to enter the correct name of her father and mother while applying for class 12 examination. This request made by the petitioner was rejected by the 2nd respondent through the impugned order dated 27.07.2020. Aggrieved by the same, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that the 2nd respondent has rejected the request made by the petitioner without assigning any reasons. The learned counsel submitted that the future prospects of the petitioner will be adversely affected if the mistake continues and the same has to be rectified at the earliest point of time.

4. The respondents have filed a counter affidavit. The relevant portions in the Counter affidavit are extracted hereunder :-

5. It is pertinent to mention here that the petitioner was admitted in class I in National public school, Namakkal wherein the father's name was recorded as S R KRISHNA KUMAR and Mother's name was recorded as K MAHESWARI. Further the petitioner studied up to class III in Green Park International School, Namakkal and transfer certificate was issued to the petitioner

wherein her Father's name was recorded as S R KRISHNA KUMAR but mother's name was not recorded in the transfer certificate. The petitioner was admitted in class IV in PaavaiVidhyashram, Namakkal. where petitioner's Father's name was recorded as S R KRISHNA KUMAR and Mother's name was recorded as K MAHESHWARI which was verified, certified and signed by the parent /guardian The petitioner was registered for Board Exam AISSE 2019 wherein petitioner's parents name were recorded as KRISSHNA KUMAR S R and MAHESHWARI K respectively, by the school concerned in the online registration which is not at all consistent with school records. The details/ particulars of candidates including parents detail are duly countersigned by the parents/guardians and no mistake has been indicated at that time. Again at the time of issuance of admit cards and before the declaration on the result the petitioner never made whisper for incorrect name while an opportunity for Bona-fide candidate to claim the corrections was given.

6. This respondent submits that the board has prepared its examination Bye-laws for smooth accomplishment of examination related activities. Under rule 69 of the Bye-laws provisions and procedure for correction/change in particular of candidate in Board's records have been provided. Both change in name & correction in name are two different concepts, the rules for which have been defined under the rule 69. Compliance of the recruitments given under rule 69.1(i) is mandatory for carrying out 'changes' in name(s) "before the publication of class X result" Whereas, conformity to Rule 69.1(ii) is specifically for applications relating to the correction in name (s). The applicable Rules are read as under 69.1(i)-(Change in Candidate Name Mother name and Father name). Application regarding changes in name of surname of candidates will be considered provided the changes have been admitted by the Court of Law and notified in the Government Gazette before the publication of result of the candidate. In cases of change in documents on the documents after the court orders caption will be mentioned on the document "CHANGE ALLOWED IN NAME/FATHER'S NAME /MOTHER'S NAME/ GUARDIAN'S NAME FROM _____ to _____ on (DATED) _____ as per COURT ORDER NO _____ DATED _____"

69.1(ii) - Correction in Candidate Name, Mother Name & Father Name/ Surname:
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 of Guardians name to make it consistent with what is given in the school record or list of candidate 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 Five 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 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.

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.

d. The board may effect necessary correction after verification of the original records of the school and on payment of the prescribed fee. This rule will be applicable to after class X/XII 2015 examination onwards.

7. The natural and intent of Rule 69 of the Examination Bye-laws is to keep the entries in Board's record as per the documents and affirmation given by the parents and the school. The parents right from the time of seeking admission to a school fills up the particulars in the application forms on the basis of birth certificate and acknowledges the same in the admission form. When a candidate migrates to another school similar particulars are recorded in the transfer certificate on the basis of which admission is sought and particulars are recorded by the ensuing school(s). When a student gets registered in class IX with the board, the entries during registration or acknowledged and verified by the candidate (s) and their parent (s). Again in class X while sending the particulars to the board in LOC (list of candidates) the parent(s) and candidate again verify and ensure correctness of their particulars and give their concurrence and acknowledge them which by rule of estoppel or rule of evidence in endorse the sanctity of entries /particulars entered in the school records which are carried forward in the following years and while pursuing future endeavours. Any attempt to

change this established entries which were made by the candidates/ parents themselves or one day allowed under the circumstances, if covered under the 11 rules of the exam examinations Bye-laws of the board.

5. Mr.Nagarajan, learned counsel appearing on behalf of the respondents submitted that the 2nd respondent took into consideration Rule 69 of the examination bye-laws and the actual entries that were made in the school records at the time of admission of the student. What was recorded in the 10th standard mark sheet was taken only from the school records and therefore, the bye-laws does not permit the respondents to make the changes as requested by the petitioner.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. The petitioner is seeking for rectification of the mistake that occasioned while recording the names of the father and mother of the petitioner in the 10th standard marksheet. The correction that is sought for does not change the name of the parents and it is only a minor mistake which can be rectified by the respondents. In the peculiar facts of the present case, this Court after taking into consideration the hardship that will be faced by the petitioner during her career, interferes with the impugned proceedings of the 2nd respondent dated 27.07.2020 and accordingly, the same is quashed.

8. There shall be a direction to the 2nd respondent to carry out the correction and issue a fresh class 10 Mark statement to the petitioner by showing the correct spelling of the Father and Mother of the petitioner. The petitioner shall immediately hand over the original 10th standard mark statement along with the application and necessary fees to enable the 2nd respondent to comply with the directions given by this Court. This process shall be completed by the 2nd respondent within a period of four weeks from the date of receipt of the copy of the application from the petitioner. There shall be a further direction to the 4th respondent school to incorporate the correct spelling of the Father and Mother of the petitioner while sending the name of the petitioner along with other candidates to the CBSE, who are going to take the 12th standard examination.

9. This direction is given by taking into consideration the fact that the last date for the 4th respondent to give the list of candidates to CBSE is fixed as 15.10.2020. By then, the petitioner will not be able to get the corrected mark statement from the 2nd respondent. Immediately after the receipt of the corrected mark statement from the 2nd respondent, the same shall be handed over by the petitioner to the 4th respondent school and

the school shall also make appropriate correction in their records.

10. This writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

To

1. The Head of the Department,
Controller of Examination,
Central Board of Secondary Education,
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi - 110 092.
2. The Regional Officer,
Central Board of Secondary Education,
Chennai Region, New No.3, Old No.1630 A,
"J" Block, 16th Main Road,
Anna Nagar West, Chennai 600 040.
3. The Deputy Secretary,
Controller of Examination,
Central Board of Secondary Education,
Chennai Region,
New No.3, Old No.1630A,
"J" Block, 16th Main Road,
Anna Nagar West, Chennai 600 040.
4. The Principal,
The Paavai Vidhyashram CBSE School,
The Paavai Group of School,
Paavai Vidhya Nagar (West Campus),
NH-7, R.Puliyampatti,
Puduchatram, Namakkal District - 637 018.

+1cc to Mr.B.Siddeswaran, Advocate, Sr.No.33688
+1cc to Mr.G.Nagarajan, Advocate, Sr.No.33457

W.P.No.11529 of 2020

rr ii (03/12/2020)