

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.4211 of 2019
and C.M.P.No.26226 of 2019

Central Board of Secondary Education
(Regional Office), New No.3,
Old No.1630-A, "J" Block, 16th Main Road,
Anna Nagar West, Chennai 600 040. ... Appellant/1st Respondent

-vs-

- 1.Minor Raana Cariappa Kalianda
Rep. by his father and natural guardian
Kalianda Chengappa Poovaiah ...1st Respondent/Petitioner
- 2.The Principal
Chettinad Vidhyashram,
Chettinad House, R.A.Puram,
Chennai 600 028. ... Respondent/Respondent

Appeal filed under Clause 15 of the Letters Patent
against the order 02.08.2019 dated made in W.P.No.20171 of
2019 on the file of this Court.

Prayer in WP No.20171 of 2019 : Writ Petition is filed under
Article 226 of the Constitution of India, to issue Writ of
certiorarified mandamus to call for the records relating to
the 1st respondent letter in CBSE / RO (M) CORRN/2018/CN/180923
dated 10/05/2019 and quash the same as illegal and
Consequently direct the 1st respondent to correct the
petitioners name as Raana Cariappa Kalianda instead of
Kalianda Ved Cariappa in the petitioners 10th standard mark
certificate and other school records within a time frame fixed
by this Hon'ble Court.

For Appellant : Mr.G.Nagarajan

For Respondents : Mr.A.Gokulakrishnan
for R-1

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

This Writ Appeal has been filed questioning the correctness of the impugned judgment of the learned single Judge by the Central Board of Secondary Education contending that the learned single Judge has committed an error in proceeding to decide the matter without taking into account the impact of the bye-laws under which Rules have been framed prescribing norms for correction or change in the name of the candidate or his parents.

2. We had entertained the appeal and had passed the following order on 04.12.2019:-

"This appeal has been filed by the Central Board of Secondary Education contending that the learned Single Judge has allowed the writ petition for a re-consideration of the request of the respondent petitioner with regard to his change of name from 'Kalianda Ved Cariappa' to 'Raana Cariappa Kalianda'.

2. From the pleadings on record, it appears that the respondent's father moved an application contending before the Board that he wants a change of name of his son in the Class X certificate issued by the Board due to astrological reasons. Thus, the change was sought not on the ground of any error or mistake and consequently, the Central Board of Secondary Education passed an order on 10.05.2019 stating that the change sought in the name of applicant's son was not found to be in consonance with the school records and accordingly, the request was rejected.

3. It is this order which came to be assailed before the learned Single Judge in the writ petition giving rise to the present appeal. The Board, in the counter affidavit filed before the learned Single Judge, took a stand that father of respondent petitioner had published the said intent of change of name in a publication stating therein that his son shall "henceforth" be known as Raana Cariappa Kalianda. Taking a cue from the aforesaid declaration made by the respondent petitioner's father, it was stated in paragraph 4 of the counter affidavit of the appellant that this change of name would accordingly come into effect prospectively and not retrospectively, therefore, there was no

occasion to allow the change as prayed for. We, thus, find a slight shift in the stand of the Board as taken in the impugned order dated 10.05.2019 to that which was taken in the counter affidavit.

4. We had heard the matter earlier and had called upon the learned counsel for the appellant Board to inform us about the rules governing the change of name and today, the said Rule has been produced before us, which records as under:

Existing Rule	Amended Rule
69.1 (i) Change in Candidate Name, Mother Name & Father Name)	69.1 (i) (Change in Candidate Name, Mother Name & Father Name)
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.	Applications regarding changes in name or 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 the result of the candidate. In case of changes in 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

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. 69.1 (i) (Change in Candidate Name, Mother Name & Father Name) Applications regarding changes in name or 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 the result of the candidate. In cases of change in 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 ____.

5.A perusal of the Rule indicates that a change in name or surname will be considered provided the changes have been admitted by a Court of law before the publication of the result of the candidate.

6.On the strength of the said Rule, learned counsel for the appellant Board contends that since there was no such decree or order from any Court of law prior to the date of declaration of the result, which had taken place in April, 2018, the certificate whereof was issued to the candidate on 29.05.2018, the change of name through the publication on 19.12.2018, which was after the publication of the result, is impermissible.

7.Thus, a third dimension to the case now creeps in with regard to the reason for denial of change of name, and it is urged by the learned counsel for the appellant Board that any direction from this Court would virtually amount to a violation of the Rule or otherwise it may be a precedent for other such matters pending before the Board. It is, therefore, urged that the law should be declared appropriately keeping in view the aforesaid Rule and the facts of the present case for avoiding any complication in future.

8.Prima facie, we find that the learned Single Judge had nowhere considered the impact of the Rule that has been produced before us and as a matter of fact, it was the stand taken in the counter-affidavit that appears to have weighed with the learned Single Judge in allowing the writ petition without setting aside the reason as contained in the order dated 10.05.2019. The matter, therefore, requires a scrutiny and consideration.

9.Accordingly, issue notice to the respondent petitioner, calling upon him to answer this appeal, more particularly in the light of the observations made hereinabove, within three weeks. Steps to be taken within ten days by both modes.

List on 13.01.2020. "

3.Learned counsel for the appellant has invited the attention of the Court to the judgment dated 17.07.2018 in W.P.No.15855 of 2018 (N.Nithyanandam vs. The Central Board of Secondary Education and Others) to urge that the same runs counter to the Rules and consequently, the impugned judgment deserves to be set aside.

4.We have examined the matter with regard to the applicability of Rules and we find that the Rules do prescribe a manner of correction to be followed, which if strictly applied in the present case may yield a different result.

5. However, in the decision in the case of P. Manimaran vs. Central Board of Secondary Education and Another, (W.P.No.34313 of 2019) decided on 24.09.2020, we found something peculiar that in all the subsequent examinations after Class X, the correct name had been entered and therefore, this discrepancy in the Class X certificate needs to be rectified. Paragraphs 7 to 10 of the said judgment are extracted hereinunder:-

"7. Nonetheless, what is peculiar about this case is that the changed name stands incorporated in the Certificates which have been awarded to the petitioner's daughter after class X examination and it is only in the class X certificate which requires correction in tune with the other subsequent certificates obtained by her.

8. The forwarding letter dated 08.11.2019 also encloses the Class XII Pass certificate, the copy of Migration Certificate and statement of marks of Phase-II M.B.B.S. examination as well as other documents in support of the aforesaid contention.

9. We, therefore, find that in this peculiar case, where subsequently the change has already been given effect to in all other certificates, the candidate would be prejudiced on account of the previous name continuing in the class X certificate only, thereby, giving an impression of variation which therefore, needs to be rectified and as stated above on the peculiar facts of this case.

10. We, accordingly, keeping in view the fact that the Court's orders are referred to in Clause 69.1(i) of Examination Bye-Laws of CBSE as a source directing correction, we direct the respondent Board to carry out the necessary corrections and make the endorsements in respect of the change referred to above on the certificate of the class X certificate of the petitioner's daughter accordingly, as requested by the letter dated 08.11.2019 that was forwarded by the School, within a period of six weeks from the date of presentation of the certified copy of the order."

6. We are, therefore, of the opinion, that on the peculiar facts of this case where also all other subsequent certificates appear to be in tune with the correct name, the said request of the first respondent could have been considered and therefore, without laying down as a matter of law, on the peculiar facts of this case, we decline to interfere with the impugned judgment, as an individual cannot be allowed to take advantage of two names when all laws are being tuned in this respect for maintaining a unique identity for all persons.

The Writ Appeal is, accordingly, consigned. No costs.
Consequently, C.M.P.No.26226 of 2019 is closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

sra

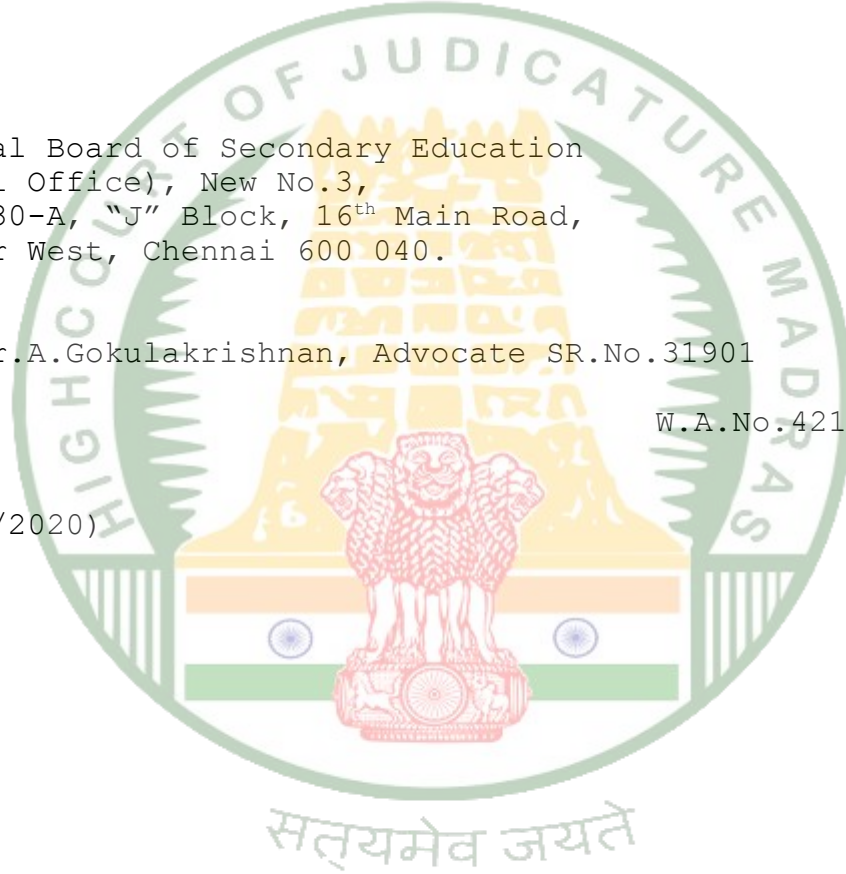
To

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

+1cc to Mr.A.Gokulakrishnan, Advocate SR.No.31901

W.A.No.4211 of 2019

RLD (CO)
GMY (05/11/2020)



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