

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

(216)

CWP-8901-2020

Date of Decision: November 02, 2020

Aarushi Sood (Minor)

.. Petitioner

Versus

Central Board of Secondary Education

.. Respondents

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Priyanka Sood, Advocate, for the petitioner.

Mr. Kannan Malik, Advocate, for the respondent.

HARSIMRAN SINGH SETHI, J.(ORAL)

Present petition has been filed seeking a direction to the respondent-Central Board of Secondary Education (hereinafter referred as 'CBSE') for correcting the name of the father of the petitioner from “Vinay Sood” to “Viney Sood” in the 10th class marksheet, which was issued to the petitioner in the year 2019, by issuance of an amended marksheet.

As per the averments made in the petition, petitioner was born on 30.08.2003 and accordingly the birth certificate was issued by the Municipal Corporation. In the said birth certificate, the name of the father of petitioner was correctly mentioned as “Viney Sood”. When the petitioner applied for her Board examination for class 10th, the name of the father of the petitioner in the said form was spelled as “Vinay Sood” instead of “Viney Sood”. Inadvertently, this fact of incorrect spelling of the name of the father of the petitioner escaped the notice of the petitioner as well as the school authorities at the relevant time. Petitioner appeared for the said

examination and cleared the same. When the marksheet of the said examination was received by the petitioner, the discrepancy in the spelling of name of the father of the petitioner was noticed wherein, the namer of the father of the petitioner was spelled as “Vinay Sood” instead of “Viney Sood”.

Petitioner immediately approached the CBSE for the correction of the name of her father in the marksheet so that she does not face any difficulty at a later stage. As no decision was being taken by the CBSE on the said request of the petitioner, petitioner filed the present petition before this Court with the prayer that the respondent-CBSE be directed to correct the spelling of the name of her father and issue an amended marksheet of 10th standard to her.

After notice of motion was issued, the respondent has filed the reply and in the reply, the respondent has stated that the name of the father of the petitioner is correctly depicted in the marksheet as depicted in the examination form which was sent by the school to the CBSE at the time of holding of the 10th class Board examination.

Learned counsel for the petitioner submits that there is no provision under the by laws or the Regulations of the CBSE to amend the name of the parties other than the one recorded in the examination form, which is supposedly filled by the school in collaboration with the candidate concerned and his/her family.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, the plea of the petitioner is very simple. The prayer of the petitioner is only for correction of a spelling mistake and not the change of name of her father. Instead of being spelled as “Viney Sood”,

the name of the father has been spelled as “Vinay Sood” in the 10th marksheet. Once, it is only a spelling mistake, which is an inadvertent mistake at the part of the school or the petitioner or her parents at the time of filling of examination form, there should not be any serious objection for the correction of the spelling of the name of the father of the petitioner so that petitioner does not suffer the effect of the said inadvertent mistake in rest of her life either at the time of securing same admission or securing job or securing other documents which require the correct spelling of the name of the parents in the required documents. Though, it is noticed that the CBSE was not at fault in recording the name of the father of the petitioner as “Vinay Sood” in the 10th marksheet because the name of her father was spelled in the said manner in the examination form filled but, in the interest of justice when, only the correct spelling of the name of the father is prayed for to be recorded in the marksheet of 10th Class, the prayer of the petitioner deserves to be allowed especially when there are no allegations of fraud or withholding of any eligibility information in the examination form. The genuine spelling mistake in the name of the parents or of the child concerned, should be rectified by the CBSE at their own discretion itself after satisfying itself about the genuinty of the prayer rather than taking shelter behind the Rules & Regulations that those do not permit the rectification. The CBSE should give a considerate thought keeping in view the settled principle of law on this aspect and if required, in case of a genuine mistake, where even as per the CBSE, no fraud or misrepresentation is involved, the rules should be amended suitably to be languaged in such a manner to give discretion to the authority

rather than forcing the child or the parents to approach this Court for the said minor correction/amendment, which is otherwise genuine.

Further, in somewhat similar circumstances, this Court while deciding CWP No. 11005 of 2020 titled as Nitin Kumar Vs. Central Board of School Education and others, on 24.09.2020 has held that a bona fide request of a party for the correction of the name should be allowed otherwise, the same will be amounting to penalize a candidate for no fault of his/her for the rest of life. This Court, allowed the change of the name from Sukhpal Singh to Sukhpal by giving appropriate direction to the Central Board of Secondary Education.

Learned counsel appearing on behalf of the respondent-Central Board of Secondary Education concedes that there is no difference between the case of the petitioner and that of Nitin Kumar's case (supra) with regard to the prayer before this Court for the change of the name.

This Hon'ble Court, while relying upon few earlier decisions, held that the correction of the name of the child/mother/father is acceptable when there is no fraud involved in the corrections of such names.

In view of the above, the present writ petition is allowed. A direction is issued to the respondent-Central Board of Secondary Education to issue the petitioner an amended marksheet of 10th class by depicting the name of the father of the petitioner as "Viney Sood". Let the needful be done within a period of four weeks from the receipt of copy of this order.

No order as to costs.

(HARSIMRAN SINGH SETHI)
JUDGE

November 02, 2020
harsha/naresh.k

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No