

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-1615-2020

Date of decision: - 23.11.2020

Central Board of Secondary Education

....Appellant

Versus

Ronit Rathee and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Kannan Malik, Advocate
for the applicant-appellant.

HARSIMRAN SINGH SETHI, J. (ORAL)

CM-5293-C-2020

Application is allowed, as prayed for.

CM-5292-C-2020

Present application has been filed for condonation of delay of
24 days in filing the Regular Second Appeal.

In view of the averments made in the application, which is
duly supported by an affidavit, the same is allowed. Delay of 24 days in
filing the present appeal stands condoned.

RSA-1615-2020

Present Regular Second Appeal has been filed by the
appellant-Central Board of Secondary Education (hereinafter referred as
'the appellant-Board') challenging the order dated 22.07.2019 passed by
the learned Civil Judge, Senior Division, Rohtak, vide which the suit filed

by the plaintiff-respondent No.1, for the correction of name of his mother has been allowed as well as the judgment dated 07.02.2020 passed by the learned District Judge, Rohtak, by which the appeal filed by the appellant-Board against the judgment dated 22.07.2019 has been rejected.

The controversy involved in the present appeal is that respondent No.1-Ronit Rathee filed a civil suit seeking declaration that the name of his mother has been wrongly mentioned as 'Raj' instead of 'Laxmi' in his matriculation certificate, which should be corrected by the appellant-Board. As per the averments made in the suit, the factum of mentioning of incorrect name of mother of plaintiff-respondent No.1 in the matriculation certificate came to the knowledge of the plaintiff-respondent No.1 in July, 2016, after which he approached the appellant-Board for the correction of the same and the appellant-Board expressed its inability to correct the name of the mother of the respondent/plaintiff by citing the rules and the bye-laws governing the said issue.

The civil suit filed by plaintiff-respondent No.1 was allowed by the learned Civil Judge, Senior Division, Rohtak on 22.07.2019, wherein, it was held that the name of mother of plaintiff/respondent No.1 has been correctly mentioned in his birth certificate as 'Laxmi' and it was only due to the inadvertent mistake at the time of filling of the examination form for the matriculation examination, the said discrepancy had occurred, which is a bona-fide mistake and does not smack of any illegality that needs to be corrected.

Appeal filed by the appellant-Board against the judgment and decree of the trial Court dated 22.07.2019 was dismissed by the learned

District Judge, Rohtak, vide order dated 07.02.2020, wherein also it was held that in the birth certificate of plaintiff-respondent No.1 as well as in the Aadhar Card and in the ration card, the name of mother of plaintiff-respondent No.1 has been mentioned as 'Laxmi', but in the admission form and in the school register, the same has been recorded as 'Raj' and the said recording of the name of the mother of plaintiff-respondent No.1 as 'Raj' is inadvertent.

The present appeal has been preferred by the appellant-Board against the concurrent findings of the Courts below.

Learned counsel appearing for the appellant-Board does not dispute the fact that in the birth certificate as well as in the aadhar card and also in the ration card, the name of mother of plaintiff-respondent No.1 has been mentioned as 'Laxmi'. Learned counsel for the appellant-Board submits that the matriculation certificate has been issued on the basis of the information supplied to the appellant-Board by the school authorities while submitting the data of plaintiff-respondent No.1, as registered with the school authorities, while forwarding the form for matriculation examination. Learned counsel for the appellant-Board further submits that it is an admitted fact that in the form submitted for undergoing matriculation examination forwarded by the school authorities, the name of mother of plaintiff-respondent No.1 has been mentioned as 'Raj', therefore, the said certificate issued by the Board to the plaintiff-respondent No.1 in July, 2016, depicting the name of his mother as 'Raj', is perfectly valid and legal and in accordance with the documents submitted to the Board.

Learned counsel for the appellant-Board further submits that there is no provision under the bye-laws and rules & regulations governing the Board for the change of name of a party other than mentioned in the examination form and in the absence of any provision, the certificate once issued, cannot be rectified with regard to change of the name of the mother of the plaintiff-respondent No.1.

I have heard learned counsel for the appellant-Board and have gone through the record with his valuable assistance.

Once, it is not being disputed that the birth certificate of the plaintiff-respondent No.1 bears the name of his mother as 'Laxmi' and the same is the undisputed factum in the aadhar card where the name of mother of plaintiff-respondent No.1 has been mentioned as 'Laxmi'. In the ration card as well the name of the mother of plaintiff-respondent No.1 has been mentioned as 'Laxmi'. It is only in the examination form, forwarded by the school authorities to the appellant-Board, the name of mother of plaintiff-respondent No.1 has been mentioned as 'Raj'. Learned counsel for the appellant-Boared concedes that the present is not a case of fraud where the plaintiff-respondent No.1 is trying to get the name of his mother changed for any ulterior purposes. It is an inadvertent mistake, which occurred while filling up the examination form seeking to appear in matriculation examination. The inadvertent mistake needs to be corrected so that the child does not suffer for life due to said inadvertent mistake, which might have been committed either by the parents or by the school authorities while filling up the admission form/examination form.

A similar question relating to the change of name had came

up for consideration before this Court in **CWP-11005-2020** titled as **'Nitin Kumar Vs. Central Board of Secondary Education and others'**, **decided on 24.09.2020**, wherein, in somewhat similar circumstances, this Court allowed the change of the name of the parents of a student in the certificate awarded by the appellant-Board itself. The relevant paragraphs of the said judgment are as under: -

“This being the factual position, the rather pedantic approach of the CBSE in blindly insisting on strict implementation of its own Bye-law cannot be accepted. It is not the case of the CBSE that any incorrect particulars are sought to be projected by the petitioner or that any fraud is being perpetrated by seeking correction of his father's name. The CBSE does not dispute the validity of the petitioner's claim in this regard. It is only on the ground that the petitioner's parents made a mistake while getting him admitted in the third respondent school that the CBSE now asserts that the petitioner is estopped from seeking any correction contrary to the school record and its own inability to correct its records and issue proper certification in relation to the petitioner's 10th and 12th class examinations.

At this stage, it may be noted that this is not the first instance that the CBSE's refusal to effect corrections in such school certificates is falling for consideration before this Court. Perusal of the orders passed in CWP-23097-2017, CWP-27040-2017, CWP-26481-2017, CWP-1709-2017 and CWP-23270-2017 reflects that these were all cases where students had assailed such refusal of correction in their certificates but the CBSE was gracious enough to concede before this Court the relief of correction of the name of the father or mother or the surname of the student.

Mr. Kannan Malik, learned counsel for the CBSE, would argue that those cases are distinguishable as the school record supported such corrections, unlike the case on hand. However, this Court does not find it to be so. For instance, in CWP-23270-2017, titled **'Shikha Khaneja vs. Central Board of Secondary**

Education and others', the petitioner therein had sought correction of her mother's name as Vipin Kumari Khaneja in the place of Sarita Khaneja. Admittedly, the mother had entered the wrong name in the school admission form at the time of her daughter's admission. Despite the same, the CBSE accepted the documentation produced in proof of the correct name and stated that it had no objection in carrying out the correction. Similar was the situation in CWP-26481-2017, titled '**Ekamvir Singh Chawla vs. Central Board of Secondary Education and others'**'.

It is therefore not open to the CBSE to adopt a different stand only in the present case, on the ground that the school record also reflects the wrong name. That apart, when the petitioner's request is genuine and *bonafide* in itself and the obdurate refusal thereof by the CBSE not only results in an adverse impact upon him but also penalizes him for no fault of his, this Court cannot remain silent. Certificates of school education offered by the CBSE provide students the launching pad for further studies and career-building. This being the basic purpose of such certification, the CBSE cannot refuse to correct simple mistakes in the student's name or the names of the student's parents in such certificates, losing sight of the larger picture.

Further, it would be an exercise in futility to drive such a student to the long-drawn and time consuming process of securing a decree from the competent civil Court, accepting his/her claim for such correction.

On the above analysis, the hidebound attitude of the CBSE in refusing the request of the petitioner, though it does not deny the genuineness of his claim, cannot be countenanced.”

Not only this, the same question of law again arose for consideration before this Court in **CWP-8901-2020** titled as '**Aarushi Sood (minor) Vs. Central Board of Secondary Education**,' decided on **02.11.2020**, wherein the name of a parent was mis-spelled and the correction sought was rejected by the Board by citing that name spelled in

the examination form, has been rightly reproduced in the mark-sheet awarded to the said candidate and as per the rules and regulations of the appellant-Board there is no provision to change the same. This Court again held that the rules of the Board should be such that inadvertent mistake should be corrected by the Board on their own after examining each and every case, if there is no fraud involved in the request for the change/correction of the name of a party in the certificate awarded by the Board. It was further held that in case there is no fraud being played while seeking the corrections in the name of a parent or a child or the correction of date of birth, the Board should evolve a procedure at their own hands by amending the rules & regulations suitably so that the applicants are not forced to approach the Court for the correction of an inadvertent mistake. The relevant paragraphs of the said judgment are as under: -

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.”

Learned counsel for the appellant-Board does not dispute that the relief granted by the Courts below to the plaintiff-respondent No.1 is akin to the relief granted by this Court in Nitin Kumar's (supra) and Aarushi Sood's (supra).

Learned counsel for the appellant-Board has failed to point out any perversity in the findings qua the evidence placed on record. In the absence of any perversity, the concurrent findings recorded by the learned Courts below, needs no intervention by this Court especially when, in somewhat similar facts, this Court has already granted the similar relief, which has been granted by the learned Courts below to plaintiff-respondent No.1 in the present case.

Keeping in view the above, no question of law arises for the determination by this Court in the present regular second appeal, hence, the same is accordingly dismissed.

As the main appeal has been dismissed, misc. application i.e. CM-5294-C-2020 for the grant of interim order has been rendered infructuous.

(HARSIMRAN SINGH SETHI)
JUDGE

November 23, 2020
naresh.k

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No