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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 24th August, 2020

+ LPA 219/2020

CENTRAL BOARD OF SECONDARY EDUCATION Appellant

Through: Mr.Amit Bansal, Adv.

Versus

MS. JYOTI

..... Respondent

Through: Dr.N.Pradeep
Mr.S.K.Rout, Adv.

Sharma with

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D.N. PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

C.M.No.20026/2020 (exemptions)

Allowed, subject to all just exceptions.

The application is disposed of.

C.M.No.20027/2020 (exemptions from filing attested affidavits)

For the reasons stated in the application and in view of the present prevailing situation, the present application is allowed. However, the applicant is directed to file duly signed and affirmed affidavits within a period of one week from the date of resumption of regular functioning of the

LPA No.219/2020

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Court.

The application is disposed of.

LPA 219/2020 & C.M.No.20025/2020(stay)

1. This appeal has been preferred by the original respondent in W.P.(C) No.10841/2019 which was decided vide judgment and order dated 6th February, 2020 (Annexure A-1 to the memo of this appeal) whereby the addition of surname of the Respondent herein in the certificates of 10th and 12th Standards was allowed.

2. W.P.(C) No.10841/2020 was preferred by the respondent herein with the following prayers:-

“(a) Issue a writ of Mandamus or any other appropriate Writ, order or direction to the Respondent to proceed in accordance With law;

(b) Set Aside / Modify the Order Dated 05.09.2019 communicated by Section Officer (M&M) of the Respondent and allow the change of name of the Petitioner in Secondary and Senior Secondary examination records and other related documents which are within the-power and custody of the Respondent.

(c) Pass such other or further order(s) as may be deemed fit and proper in the Facts and circumstances of the present case.”

3. The respondent (original writ petitioner) appeared in the Class X and XII examinations conducted by the appellant-Board, and her name is entered in the records of the Board as “Jyoti”. The names of her parents are also on the record, both with the surname “Dalal”. The respondent has since

qualified as a doctor and wishes to go overseas for further studies, for which purpose she requires the addition of the surname “Dalal” in her Class X and XII records. This was declined by the appellant-Board, but the learned Single Judge has, by the impugned order dated 6th February, 2020 directed the Board to carry out the necessary modification in its records.

4. Having heard the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that the names of the father and mother of the respondent -Jyoti are mentioned in the certificates as Ved Pal Dalal and Kulwant Dalal respectively. Therefore, addition of the surname 'Dalal' after the name of the student - Jyoti will not cause any adverse effect or prejudice to the appellant. Moreover, it further appears from the facts of the case that the respondent - Jyoti has completed her MBBS and now she wants to go abroad for further studies. However, as noted by the learned Single Judge in the impugned order, while filling up the application form for Professional and Linguistic Assessments Board (PLAB) test, conducted by the General Medical Council, U.K, she was required to enter her surname. Thus, there is a genuine reason for which the respondent requires her surname to be incorporated in the records.

5. Learned counsel for the appellant has relied upon the Judgment of Division Bench of this Court dated 23.1.2017, rendered in LPA No.41 of 2017, titled *Aditya Srivastava (Minor) through Natural Guardian Mother vs. Central Board of Secondary Education & Anr.*; Judgment dated 26.7.2018, rendered in W.P.(C) No.7755/2017, titled *Yashika Kapoor @ Neha Kapoor vs. Central Board of Secondary Education & Anr.* and judgment dated 23.9.2019, passed in W.P.(C) No.8270/2019, titled

Sh.Tajinder Singh Sachdev vs. The Regional Officer Central Board of Secondary Education and Anr.

6. Looking to paragraph-11 of the impugned judgment and order dated 6th February, 2020, the aforesaid decisions have been rightly dealt with by the learned Single Judge holding that they are based upon different facts and circumstances and, therefore, not applicable to the facts of the present case.

7. The appellant – Board in support of its case has relied upon Clause 69.1(i) of the Examination Bye-Laws relating to correction and change in name and period for correction in date of birth, which reads as under:-

“69(1)(i) Change in name of candidate/Father/Mother/Guardian once entered in the Board’s record at any stage while studying in Class IX, X, XI, XII or thereafter, within a period of ten years from the date of issue of first such document shall be considered on written request of the Candidate (not minor)/father/mother/guardian duly forwarded by the Head of the Institution supported by the following documents:

a) Original copy of two newspapers (daily English/Hindi newspaper at National Level & daily newspaper in a vernacular language circulated in the locality), in which the desired change has been published.

b) Original Affidavit duly sworn before the Judicial Magistrate, First Class/Metropolitan Magistrate/Executive Magistrate/Sub Divisional Magistrate

(c) Original copy of Publication in Government Gazette.

(d) Payment of prescribed fee.

(e) True Copy of admission form filled in by the parents duly updated as per Gazette Notification of desired change and duly attested by the Head of the concerned institution.

(f) True copy of School Leaving Certificate of the previous school submitted by the parent/candidate at the time of admission and updated as per Gazette Notification of desired

change, duly attested by the Head of the concerned institution.

(g) True copy of the page of admission and withdrawal register of the school where the entry has been made in respect of candidate showing updation as per Gazette Notification of desired change duly attested by the Head of the concerned institution-”

8. Looking to the peculiar facts and circumstance of the present case, we are of the opinion that the same does not fall under the ambit of Clause 69(1)(i) of the Examination Bye-Laws as :-

- a) This is not a case of change of name, but of incorporation of the surname of the person concerned,
- b) This is not a case where something which was altogether omitted is to be added, as the parents’ names were available in full in the records of the appellant-Board,
- c) The respondent (original petitioner) in this case carries the surname of the father and the mother which she wanted to mention after her name. There is no dispute about her identity or confusion about the veracity of the name which she seeks to incorporate.

9. In view of the above, no error has been committed by the learned Single Judge in passing the impugned order and therefore we see no reason to take any other view than what is taken by the learned Single Judge. The appeal is accordingly dismissed.

10. It is, however, clarified that this order has been passed keeping in mind the peculiar facts and circumstances of the present case and shall not be treated as a precedent regarding relaxation of Clause 69(1)(i) of the Examination Bye-Laws. If any controversy arises with respect to Clause

69(1)(i) of the Examination Bye-Laws in any future case, the same shall be dealt with on its own merits.

CHIEF JUSTICE

PRATEEK JALAN, J

AUGUST 24, 2020
'anb'

