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

Judgement reserved on 17.09.2019
Judgement pronounced on 17.03.2020

+ **W.P.(C)No.11293/2018**

MEGHNA SINGH (THROUGH: HER NATURAL GUARDIAN)
AVITA D LAL Petitioner

Through: Mr. R.K. Sharma, Advocate.
versus

CENTRAL BOARD OF SECONDARY EDUCATION
AND ANR. Respondents

Through: Mr. Amit Bansal with Ms. Seema
Dolo and Ms. Vipasha Mishra, Advs.
for R-1/CBSE.
Ms. Shashi Ranjan and Mr. Arvind
Rathaur, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J.

1. This case presents somewhat peculiar circumstances whereby the essential relief sought for by the petitioner is that the respondent No 1 i.e. Central Board for Secondary Education (in short "CBSE") be directed to correct her mother's name in the Class X certificate. The peculiarity arises on account of the fact that the marriage of the petitioner's mother was dissolved, *albeit*, by mutual consent and a decree to that effect was obtained on 23.05.2008.

2. Prior to her marriage, the petitioner's mother's maiden name was "Avita D Lal". After her marriage, the petitioner's mother, it appears, came to be known as "Shikha Chauhan". This aspect emerges upon a perusal of

the divorce decree where the petitioner's mother is described as "Ms. Shikha Chauhan @ Avita D Lal". Thus, in effect, the petitioner's mother's name, prior to her divorce would in its entirety read as "Shikha Chauhan nee Avita D Lal".

3. After the decree for divorce was passed, the only change which was brought about *vis-à-vis* the petitioner's mother's name was that the first part of her name got excised. In other words, the petitioner's mother reclaimed her identity as "Avita D Lal".

4. There is no dispute that the Aadhar Card issued to the petitioner's mother and her own birth certificate shows her name as "Avita D Lal". There is also no dispute that in the petitioner's mother's birth certificate issued in the first instance by the Government of Rajasthan, Directorate of Economics & Statistics, her name was shown as Shikha Chauhan and that upon an application for correction being made, a fresh certificate was issued on 31.01.2018, wherein, the petitioner's mother's name is shown as Avita D Lal.

5. The record also shows that in the admission form generated for grade-IX by respondent No. 2 school, the petitioner's mother's name is noted as "Shikha". Likewise, in the school leaving certificate issued by the earlier school, in which, the petitioner was admitted i.e. Shanti Gyan International School, the petitioner's mother's name is recorded as Shikha.

6. Besides this, the CBSE in its counter-affidavit says [and quite correctly so] that in the List of Candidates (in short "LOC") handed over to it at the time when the petitioner was to take the Class X exam, the petitioner's mother's name was shown as Shikha and, therefore, the same name was recorded in the Class X certificate.

7. It is averred in the petition that upon discovering the fact that in the Class X certificate, the petitioner's mother's name was shown as Shikha and not Avita D Lal, she approached the officials of the CBSE. It is further averred that since the petitioner's mother did not receive a favourable response, she wrote to the chairperson of CBSE on 30.08.2018 seeking correction in her name in the petitioner's Class X certificate.

8. It is in this background that the petitioner approached this Court as she was unable to obtain necessary relief from the CBSE.

9. Notice in this petition was issued on 22.10.2018. The record shows that based on the oral request of the counsel for the petitioner, respondent No. 2 school was arrayed as a party to the writ petition. The record discloses that counter-affidavits have been filed both by the CBSE and respondent No. 2 school.

10. In short, what has been recorded above is what emerges upon perusal of pleadings filed by the parties. The submissions of counsel for the parties veer around the pleadings filed in the matter. It may be relevant to note that respondent No. 2 school avers that upon being contacted by the CBSE, *albeit*, telephonically, the documents concerning the admission of the petitioner, who at that time was studying in grade-XI, were despatched to the CBSE.

11. It is in this backdrop that arguments on behalf of the petitioner were advanced by Mr. R.K. Sharma. On the other hand, the CBSE was represented by Mr. Amit Bansal while respondent No. 2 school was represented by Ms. Shashi Ranjan.

12. Mr. Bansal has opposed the relief sought for in the petition, essentially, on the ground that there is no fault attributable to the CBSE in

recording the name of the petitioner's mother in Class X certificate as Shikha since that was the information submitted to the CBSE via the LOC. It was further contended that change in name could not take place once the result of the Class X exam was published.

13. Insofar as Ms. Ranjan was concerned, she submitted that respondent No.2 school would have no objection if the relief sought for in the petition is granted by this Court. In effect, Ms. Ranjan supported the arguments advanced by Mr. R.K. Sharma on behalf of the petitioner.

14. Mr. Sharma's submission was that given the peculiar circumstances which arise in this case, the Court ought to grant the relief sought for by the petitioner.

15. As noted right at the outset, the change in circumstances concerning the petitioner's mother's marital status has led to the institution of the present petition. The moot point is : given the circumstance, should the correction in the name be ordered, as prayed?

16. The narration of facts and events as set out above would show that the petitioner had approached the Court in October 2018, *albeit*, after the Class X certificate had been issued in May 2018. At that relevant point in time, the petitioner stood admitted to grade-XI and was at the anvil of submitting her admission form *qua* grade-XII examination.

17. Given the fact that the petitioner had already approached the Court for recording the change in her mother's name, the non-consideration of the request by the CBSE would result in its own record being inconsistent with the school record.

18. The fact that the petitioner's mother chose to identify herself by her maiden name i.e. Avita D Lal has already been brought to the notice of the

CBSE. If CBSE continues to show the petitioner's mother's name in the grade-XII certificate as Shikha, it would be inconsistent with the record maintained by respondent No. 2 school as the request for change of name has already been placed on its record.

18.1. On the other hand, if CBSE were to incorporate the change in petitioner's mother's name only in the grade-XII certificate, it would result in an anomaly as the petitioner's mother's name in the Class X certificate is shown as Shikha.

19. As alluded to hereinabove, in law, the petitioner's mother, prior to her divorce, was described as Shikha Chauhan nee Avita D Lal.

20. However, after the issuance of a decree of divorce, the petitioner's mother, in a sense, reclaimed her identity by excising the first part of her name i.e. Shikha Chauhan and chose to describe herself as Avita D Lal. In other words, with the issuance of the divorce decree the petitioner's mother would now be described by her maiden name i.e. Avita D Lal.

21. Thus, given these circumstances and in order to maintain consistency in the school records, I would classify this as a correction in name and not a change in name in view of the petitioner making a request for correction in her mother's name within one year of the declaration of result which, admittedly, was forwarded to the CBSE on 01.10.2018. That being said, there is an obvious gap in bye-law 69.1(ii)¹ of the "Examination Bye-Laws

¹ 69.1 (ii) 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 or Guardian's name to make it consistent with what is given in the school record or list of candidates (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 one year of the date of declaration of result provided the

Relating to Correction & Change in Name and Period for Correction in Date of Birth" as it does not provide for a situation where a request for a change in name is made in the circumstances obtaining in this case. The bye-law, though, permits correction to maintain consistency with the school record. The anomaly, in my opinion, needs to be addressed. Correction in the petitioner's mother's name in Class X certificate is the only way in which the school record will remain consistent.

22. To my mind, this Court will have to take judicial notice of the fact that increasingly inconsistency in personal data maintained by various statutory authorities has brought to grief many a person. If the school record of the petitioner is not aligned with the record maintained by other statutory authorities, she could face difficulties in future. In this behalf, reference is made to Section 2(K)² and Section 34³ of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

application of the candidate is forwarded by the Head of Institution with the following attested documents:

- (a) True Copy of Admission forms) 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 institution.
- (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.

² 2. In this Act, unless the context otherwise requires,—

xxx

xxx

xxx

(k) "demographic information" includes information relating to the name, date of birth, address and other relevant information of an individual, as may be specified by regulations for the purpose of issuing an Aadhaar number, but shall not include race, religion, caste, tribe, ethnicity, language, records of entitlement, income or medical history;

³ 34. Whoever impersonates or attempts to impersonate another person, whether dead or

22.1. The petitioner, who has just about started her adult life, needs to have a secure future. Thus, in the best interest of the petitioner and, in the fitness of things, it would be appropriate if a direction is issued as sought for in the writ petition.

23. Accordingly, the writ petition is allowed. The CBSE will issue a fresh certificate and mark sheet concerning Class X with the petitioner's mother's name shown as "Avita D Lal". To facilitate this exercise, the petitioner will surrender her earlier Class X certificate and mark sheet to the CBSE before the CBSE issues a fresh Class X certificate and mark sheet. The CBSE will also issue the Class XII certificate and mark sheet with the petitioner's mother's name shown as Avita D Lal.

24. The writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

MARCH 17, 2020

alive, real or imaginary, by providing any false demographic information or biometric information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.