

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA-877-2020 (O&M)  
IN CWP-22159-2018  
Date of Decision:06.01.2021

Central Board of Secondary Education, Regional Officer, Panchkula  
and another

...Appellants

Versus

Akshat Bhagat (minor) and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH  
HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Kannan Malik, Advocate,  
for the appellants.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

**SANT PARKASH, J.**

Instant *intra-court* appeal under clause X of the Letters Patent is directed against the order dated 06.03.2020 (A-1) passed by the learned Single Judge, whereby the writ petition was allowed. Further, prayer has been made for setting aside the order dated 31.08.2020 vide which the application for re-calling of the aforesaid order filed by the appellant-Board was dismissed.

Brief facts of the case are that father's name of respondent No.1-petitioner is "Varinder Kumar" and his mother's name is "Geeta Kumari", as recorded in his Birth Certificate. However, while submitting the details to the respondent-school, the names of his parents were recorded as "Varinder Kumar Bhagat" and "Geeta Bhagat" which were forwarded to

the appellant-Board by the respondent-School and were recorded in the Secondary School Examination Certificate dated 03.06.2017. It is stated that respondent No.1-petitioner made number of representations but ultimately appellant-Board rejected his case on the ground that the school record does not support the desired correction. Resultantly, respondent No.1-petitioner approached this Court by way of CWP No.22159-2018, inter alia, seeking a writ in the nature of mandamus to direct the appellants to change the name of his parents in his Secondary School Examination Certificate issued by the appellant-Board.

The afore-mentioned writ petition was allowed by the learned Single Judge vide impugned order dated 06.03.2020 (A-1) in view of the fact that as per the affidavits submitted by the parents of respondent No.1 petitioner during the pendency of the writ petition, the appellant-Board was willing to make the necessary changes sought in the petition. Feeling aggrieved against the above-said order dated 06.03.2020 (A-1), the appellant-Board preferred a review application for re-calling of the said order, however, the same was also dismissed vide order dated 31.08.2020.

Learned counsel for the appellant-Board submits that the concession was accorded by the appellant-Board as it was stated by respondent No.1-petitioner during the course of hearing of the writ petition that there was an inadvertent error in recording the details at the time of filling up of admission form. He further submits that upon receiving the certified copy of the impugned order dated 06.03.2020, the appellant-Board considered the matter afresh and it came to light that at the time of examination, the names of the parents of respondent No.1-petitioner were submitted to the appellant-Board as “Varinder Kumar Bhagat” and “Geeta

Bhagat” and the same were duly reflected in the List of Candidates (LOS), which was prepared after having been signed by the candidate, i.e. respondent No.1-petitioner and his parents themselves. In these circumstances, the appellant-Board filed an application for re-calling of the impugned order 06.03.2020 (A-1), however, the same was also dismissed vide order dated 31.08.2020.

This Court has heard the learned counsel for the appellant and perused the case file including the orders passed by the learned Single Bench.

Before advertng to the matter in hand, it is noted that Letters Patent Appeal (LPA) is an appeal by a petitioner against the decision of a Single Judge to another Bench of the same Court. It is an *intra-court* appeal in High Court. The scope of the LPA is limited to the extent whether the judgment under appeal is permissible in law and is in consonance with the settled canons of law. Reference in this regard can gainfully be made to the judgment of the Hon'ble Supreme Court in **Management of Narendra and Company Vs Workmen: 216(3) SCC 340**, wherein it has been held that unless the Appellate Bench reaches to a conclusion that the finding of the learned Single Bench is perverse, it shall not disturb the same and there should be no interference with the order passed by the learned Single Judge merely because another view or a better view is possible.

Moreover, a perusal of the impugned order dated 06.03.2020 shows that the same was passed on account of the willingness of the appellant-Board to make the necessary correction as sought by respondent No.1-petitioner keeping in view the fact that his parents had sworn affidavits that no civil or criminal liability would be attached with their

unchanged names. Though, it is the argument of the learned counsel for the appellant-Board that the CBSE was not at fault in recording the names of the parents of respondent No.1-petitioner as “Varinder Kumar Bhagat” and “Geeta Bhagat” but, in the interest of justice when, only the correction of the names of the parents have been prayed for to be recorded in the Certificate of Secondary School Examination Certificate on the basis of Birth Certificate and other relevant documents, the learned Single Judge has rightly accepted the prayer of the petitioner especially when it is not disputed that there are no allegations of fraud or withholding of any eligibility information in the examination form. A bona fide request of a party for the correction of the name should be allowed, otherwise, the same would amount to penalize a candidate for no fault of his/her for the rest of life. The genuine mistake in the name of the parents should be rectified by the CBSE at their own after satisfying itself rather than taking shelter behind the Rules & Regulations that those do not permit the rectification. Merely on technicality that the matter does not fall within the ambit of bye-laws of the CBSE i.e. it is not a spelling error or factual typographical error, petitioner should not be made to suffer. The identity of the candidate is not disputed.

Respondent No.1-petitioner has approached this Court at the earliest stage and it cannot be presumed by any stretch of imagination that any wrongful benefit would accrue to him merely on account of the deletion of the surnames of the parents of the petitioner. Moreover, the purpose of approaching this Court is to bring the present certificate in conformity with other documents belonging to respondent No.1-petitioner wherein his father's name has been recorded as “Varinder Kumar” and mother's name

has been recorded as “Geeta Kumari”. It is worthwhile to mention here that if the genuine prayer of respondent No.1-petitioner is not accepted, it will certainly result into great hardship to him and at every level, he will have to explain about his parentage and it may result into rejection of his candidature for passport etc. by the competent authority. Though, the relevant clause 69.1 of Examination Bye-Laws of CBSE does not permit such corrections but the learned Single Bench has rightly exercised its inherent power keeping in view the peculiar facts and circumstances of the case and this Court cannot interfere in the matter under LPA unless there is patent error on the face of the record. The view taken by the learned Single Bench is quite reasonable and logical. Thus, no ground for interference is made out. Even otherwise, no prejudice is going to be caused to the appellant-Board.

In view of the above discussion, the present appeal is dismissed, being devoid of any merit.

**(JASWANT SINGH)**  
**JUDGE**

**(SANT PARKASH)**  
**JUDGE**

**06.01.2021**

mks

Whether Speaking/Reasoned: YES / NO  
Whether Reportable: YES / NO