

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14730 of 2022

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Shakti Shalini D/o Sri Gyan Atish Mishra, Resident of Flat No. 104, Sunny Tower, Near Hospito India, Budha Colony, P.S. - Budha Colony, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, New Secretariat, Government of Bihar, Patna.
2. The Vice Chancellor, Magadh University, Bodh - Gaya.
3. The Registrar, Magadh University, Bodh - Gaya.
4. The Controller of Examination, Magadh University, Bodh - Gaya.
5. The Vice - Chancellor, Patliputra University, Patna.
6. The Registrar, Patliputra University, Patna.
7. The Principal, J.D. Womens College, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Anju Jha, Adv. With Mr. Bhavendra Jha, Adv.
For the M.U.	:	Mr. Pratik Kumar Sinha, Adv.
For Patliputra Univ.	:	Mr. Rana Vikram Singh, Adv.
For the State	:	Mr. Madhaw Pd. Yadaw (Gp23)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 09-11-2022

1. Heard the parties.

2. The limited prayer made by the petitioner is for correction of the name in the marks-sheet of B.A. Part-II of three years degree course, where the name of the petitioner has been mentioned as Shanti Shalini in stead of Shakti Shalini, while in the B.A. Part-I examination marks-sheet her name has been shown as Shakti Shalini and in B.A. Part-III also, it has been shown as Shakti Shalini.



3. The name in B.A. part-II examination marks-sheet it shown as Shanti Shahini.

4. Learned counsel submits that she had also applied for duplicate marks-sheet, but the same was also not provided to her.

5. Learned counsel appearing for the Magadh University submits that the writ petition is highly belated as the exam was conducted and marks-sheet was issued in the year 1997, while the writ petition is of 2022. There appears to be a gross delay on part of the petitioner, keeping in view that the name of the petitioner is mentioned correctly in B.A. Part-I as well as B.A. Part-III marks-sheet of the same exam, the University can verify the marks-sheet as placed before this Court of B.A. Part-II and issue the correct marks-sheet with correct name.

6. In Jigyaa Yadav Vs. Central Board of Secondary Education and Ors. (2021) 7 SCC 535, the Hon'ble Supreme Court has concluded as under:-

“192. Although we have discussed the broad issues canvassed before us, in the ultimate analysis the real dispute requiring resolution is about the nature of correction or change, as the case may be, permissible to be carried by the CBSE at



the instance of the student including past student.

As noted earlier, broadly, two situations would arise.

193. The first is where the incumbent wants “correction” in the certificate issued by the CBSE to be made consistent with the particulars mentioned in the school records.

193.1. As we have held, there is no reason for the CBSE to turn down such request or attach any precondition except reasonable period of limitation and keeping in mind the period for which the CBSE has to maintain its record under the extant regulations. While doing so, it can certainly insist for compliance of other conditions by the incumbent, such as, to file sworn affidavit making necessary declaration and to indemnify the CBSE from any claim against it by third party because of such correction. The CBSE would be justified in insisting for surrender/return of the original certificate (or duplicate original certificate, as the case may be) issued by it for replacing it with the fresh certificate to be issued after carrying out necessary corrections with caption/annotation against the changes carried out and the date of such correction. It may retain the original entries as it is except in respect of correction of name effected in



exercise of right to be forgotten. The fresh certificate may also contain disclaimer that the CBSE cannot be held responsible for the genuineness of the school records produced by the incumbent in support of the request to record correction in the original CBSE certificate. The CBSE can also insist for reasonable prescribed fees to be paid by the incumbent in lieu of administrative expenses for issuing fresh certificate.

193.2. At the same time the CBSE cannot impose precondition of applying for correction consistent with the school records only before publication of results. Such a condition, as we have held, would be unreasonable and excessive. We repeat that if the application for recording correction is based on the school records as it obtained at the time of publication of results and issue of certificate by the CBSE, it will be open to CBSE to provide for reasonable limitation period within which the application for recording correction in certificate issued by it may be entertained by it. However, if the request for recording change is based on changed school records post the publication of results and issue of certificate by the CBSE, the candidate would be entitled to apply for recording such a change within



the reasonable limitation period prescribed by the CBSE. In this situation, the candidate cannot claim that she had no knowledge about the change recorded in the school records because such a change would occur obviously at her instance. If she makes such application for correction of the school records, she is expected to apply to the CBSE immediately after the school records are modified and which ought to be done within a reasonable time.

193.3. Indeed, it would be open to the CBSE to reject the application in the event the period of preservation of official records under the extent regulation had expired and no record of the candidates concerned is traceable or can be reconstructed. In the case of subsequent amendment of school records, that may occur due to different reasons due to including because of choice exercised by the candidate regarding change of name. To put it differently, request for recording of correction in the certificate issued by the CBSE to bring it in line with the school records of the incumbent need not be limited to application made prior to publication of examination results of the CBSE.

194. As regards request for “change” of



particulars in the certificate issued by the CBSE, it presupposes that the particulars intended to be recorded in the CBSE certificate are not consistent with the school records. Such a request could be made in two different situations. The first is on the basis of public documents like birth certificate, Aadhaar card, election card, etc. and to incorporate change in the CBSE certificate consistent therewith. The second possibility is when the request for change is due to the acquired name by choice at a later point of time. That change need not be backed by public documents pertaining to the candidate.

194.1. Reverting to the first category, as noted earlier, there is a legal presumption in relation to the public documents as envisaged in the 1872 Act. Such public documents, therefore, cannot be ignored by the CBSE. Taking note of those documents, the CBSE may entertain the request for recording change in the certificate issued by it. This, however, need not be unconditional, but subject to certain reasonable conditions to be fulfilled by the applicant as may be prescribed by the CBSE, such as, of furnishing sworn affidavit containing declaration and to indemnify the CBSE and upon payment of prescribed fees in lieu of administration expenses. The CBSE may also insist for issuing



public notice and publication in the Official Gazette before recording the change in the fresh certificate to be issued by it upon surrender/return of the original certificate (or duplicate original certificate, as the case may be) by the applicant. The fresh certificate may contain disclaimer and caption/annotation against the original entry (except in respect of change of name effected in exercise of right to be forgotten) indicating the date on which change has been recorded and the basis thereof. In other words, the fresh certificate may retain original particulars while recording the change along with caption/annotation referred to above (except in respect of change of name effected in exercise of right to be forgotten).

194.2. However, in the latter situation where the change is to be effected on the basis of new acquired name without any supporting school record or public document, that request may be entertained upon insisting for prior permission/declaration by a court of law in that regard and publication in the Official Gazette including surrender/return of original certificate (or duplicate original certificate, as the case may be) issued by CBSE and upon payment of prescribed fees. The fresh certificate as in other situations referred to



above, retain the original entry (except in respect of change of name effected in exercise of right to be forgotten) and to insert caption/annotation indicating the date on which it has been recorded and other details including disclaimer of CBSE. This is so because the CBSE is not required to adjudicate nor has the mechanism to verify the correctness of the claim of the applicant.

195. In the light of the above, in exercise of our plenary jurisdiction, we direct the CBSE to process the applications for correction or change, as the case may be, in the certificate issued by it in the respective cases under consideration. Even other pending applications and future applications for such request be processed on the same lines and in particular the conclusion and directions recorded hitherto in paras 193 and 194, as may be applicable, until amendment of relevant bye-laws. Additionally, the CBSE shall take immediate steps to amend its relevant bye-laws so as to incorporate the stated mechanism for recording correction or change, as the case may be, in the certificates already issued or to be issued by it.”

7. In view of above position of law, as settled by the Hon’ble Apex Court, the same directions shall apply to the University also.



8. The delay in filing of this writ petition can be suitably compensated by depositing a sum of Rs.2,000/- (two thousand) with the University for the purpose.

9. If the amount is deposited within a period of one week, the University shall issue the correct marks-sheet within a period of 15 days thereafter.

10. The duplicate marks-sheet of B.A. Part-III may also be issued provided the petitioner shall deposit the requisite fees.

11. The writ petition stands disposed of.

(Sanjeev Prakash Sharma, J)

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Item No. 40

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