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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18468 of 2020

and

W.M.P.No. 22911 of 2020

Mrs.S.Ashtalakshmi

...Petitioner

Vs.

1. The Central Board of Secondary Education,
Regional office,
rep.by Section Officer,
New No.3, 'J' Block,
Anna Nagar (West), Chennai 46.

2. The Principal,
Srimathi Sundaravalli Memorial School,
Moppedu (Puthur) Road,
Alapakka, New Perungalathur,
Chennai 600 063.

...Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent vide CBSE/ RO(M)/ CORRN/ 2018/ MN/ 8636 dated 23.02.2019 and correct mother of Haritheesthan S name as S ASHTALAKSHMI in the secondary school examination, 2018 Mark sheet (certificate) and other school records and certificates of Haritheesthan S and consequently direct the respondents to issue corrected original substituted certificate to Haristheesthan S.

For Petitioners : Mr.S.Sathyaraj

For Respondents : Mr.G.Nagarajan
Government Advocate

O R D E R

The petitioners have filed these writ petitions seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent and quash the same and consequently direct the respondents to issue corrected original substituted



certificate

2.The case of the petitioner is that her son underwent his education with the respondent Board and wrote X Standard Board Examination in the year 2018. The petitioner's name is S.Ashtalakshmi, however it has been wrongly mentioned as S.Asthalakshmi in the Mark Statement cum Certificate for the Year 2018 (X Standard). According to the petitioner, the mistake crept in due to the entry of names in an incorrect manner and without noticing the said mistake, the deponent also signed at the back of the statement that all the particulars were correct. Since the mistake that crept in the Mark Statement cum Certificate of the petitioner's son would be an impediment in the future for the petitioner's son, she made representation dated 11.10.2018 to the 2nd respondents seeking correction of her name and vide impugned order dated 23.02.2019, without any valid reasons, had rejected the petitioner's request. Aggrieved by the same, the present petition is filed.

3.The learned counsel appearing for the petitioner would submit that the issue raised in the present case is no longer res integra and the issue has already been settled by the Hon'ble Apex Court in Civil Appeal No.3905 of 2011 in the case of Jigya Yadav (Minor) Vs. C.B.S.E. (Central Board of Secondary Education) and others. Hence, this Court may issue direction to the respondents to re-entertain the representation of the petitioner's mother seeking correction of her name in the Mark Statement cum Certificate of the petitioner, without citing any bye-laws or any other impediments, and correct the petitioner's mother's name in the Mark Statement cum Certificate for the Year 2018 (X Standard) and issue a fresh Certificate for X Standard to the petitioner's son, within a reasonable time frame.

4.The learned Standing Counsel appearing for the respondents did not dispute the ratio laid down by the Hon'ble Apex Court in Civil Appeal No.3905 of 2011 in the case of Jigya Yadav (Minor) Vs. C.B.S.E. (Central Board of Secondary Education) and others, however, would submit that the application for correction of the name of the petitioner's son has to be made through proper channel. The petitioner's mother has to make application to the School and the School will forward the same to the respondents, however, the petitioner has directly made application to the respondents which is not sustainable.

5.Heard the submissions made by the learned counsel appearing for the petitioner as well as the learned learned Standing Counsel appearing for the respondents.

6.As rightly pointed out by the learned counsel appearing for the petitioner, the issue raised in the present case is no



longer res integra and the issue has already been settled by the Hon'ble Apex Court in Civil Appeal No.3905 of 2011 in the case of Jigya Yadav (Minor) Vs. C.B.S.E. (Central Board of Secondary Education) and others, the relevant portion of which is extracted hereunder:

"2.The seminal issue in these cases is: whether an individual's control over such cardinal element of identity could be denied to him/her by the Central Board of Secondary Education 1 on the specious ground that its Examination Byelaws of 2007 2 must prevail over the claim of the candidate, which are merely intended to regulate such a claim and to delineate the procedure for correction/change in the contents of certificate(s) issued by it including regarding maintenance of its office records?

3.The CBSE Examination Byelaws restrict, both qualitatively and quantitatively, the corrections/changes that can be carried out in the certificates issued by the Board. Various students with need based requests approached different High Courts resulting into inconsistent outcomes leading up to this batch of appeals. Apart from the fact that the judgments have produced conflicting outcomes, the petitions raise some peculiar questions on the 1 for short, "CBSE" or "Board", as the case may be 2 for short, "Byelaws" constitutional validity of CBSE Examination Byelaws (as amended from time to time) and interpretation thereof.

169.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.

170. 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. As we have held there is no reason for the CBSE to turn down such request or attach any precondition except reasonable period of



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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. 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



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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. Indeed, it would be open to the CBSE to reject the application in the event the period for preservation of official records under the extant regulations had expired and no record of the candidate concerned is traceable or can be reconstructed. In the case of subsequent amendment of school records, that may occur due to different reasons 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.

171. 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.

(a) 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,



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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 administrative 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).

(b) 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.



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172. In 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 paragraphs 170 and 171, as may be applicable, until amendment of relevant Byelaws. Additionally, the CBSE shall take immediate steps to amend its relevant Byelaws 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. Perusal of the decision cited supra makes it clear that the Hon'ble Apex Court has issued directions to the Central Board of Secondary Education to entertain and process the application made for correction or change as the case may be in the Certificate issued by it.

8. In view of the above, this Writ Petition is allowed and the CBSE/ RO(M)/ CORRN/ 2018/ MN/ 8636 dated 23.02.2019, is set aside and there is no need for submitting application for correction before the School. Since the Certificate was issued by Central Board of Secondary Education, they shall re-entertain the application/ representation made by the petitioner's mother and if they want any clarification, they can call for information from the School and issue correct Mark Statement cum Certificate as sought for by the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Section Officer,
The Central Board of Secondary Education,
Regional office,
New No.3, 'J' Block,
Anna Nagar (West), Chennai 46.

2. The Principal,
Srimathi Sundaravalli Memorial School,
Moppedu (Puthur) Road,
Alapakka, New Perungalathur,
Chennai 600 063.

+1cc to Mr.S.Sathyaraj, Advocate, S.R.No.6522

W.P.No.18468 of 2020

AK(CO)
RGA(14/03/2022) (15/03/2022)