

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4586 of 2023

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Amit Kumar Pandey, Son of Late Saraswati Prasad Pandey, Resident of Village- Suarchhap, P.O.- Briti Matiyariya, P.S. Lauriya, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Education Department, Patna.
2. The Chairman, Central Board of Secondary Education, New Delhi.
3. The Assistant Secretary, C.B.S.E., Board, New Delhi.
4. The Regional Director, C.B.S.E., Board, Bihar, Patna.
5. The Principal, ST. Michael's Academy, Chawani Bettiah, West Champaran, Affiliated to C.B.S.E., Board, New Delhi (Plus 2 Level) Affiliation No. 330174, School Code- 50080.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Ms. Vagisha Pragya Vacaknavi, Advocate Mr. Sanjeev Kumar Shrivastava, Advocate
For the Respondent/s	:	Mr. Narendra Kumar, AC to GP-20
For the CBSE	:	Mr. V.K. Tripathi, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 21-06-2023 Heard learned counsel for the petitioner and learned counsel for the Central Board of Secondary Education (hereinafter referred to as the 'CBSE').

2. The petitioner in the present writ application is seeking a direction to the respondent authorities to correct his father's and mother's name in the Secondary School Examination certificate. The petitioner has passed Class 10th Examination in the year 2017 from St Michel's Academy, Chhawani, Bettiah, West Champaran. At the time of admission in the school, the natural father of the petitioner got



mentioned his name as father's name and the name of biological mother of the petitioner was mentioned as his mother's name. After about four years from the date of passing of his Class 10th Examination, the petitioner realised that in place of the name of his natural father and mother, the name of his adoptive father and mother should have been mentioned in the certificate. He claims to have made an application with the respondent no. 5 for redressal of his grievance on 15.04.2021 followed by an application on 22.06.2021 but no action has been taken by the respondents.

3. It is the admitted case of the petitioner that after passing his Class 10th Examination in the year 2017, he had got the marksheet and migration certificate from the CBSE. It is also his admitted case that since the year 2003 till the year 2017 during his entire schooling period his father's and mother's name were that of his natural father and mother and at no point of time any step was taken to produce the adoption deed which he claims to have been executed and registered on 28.06.2003.

4. Learned counsel for the petitioner submits that the petitioner was adopted by late Saraswati Prasad Pandey and late Phulena Devi. The adoption deed has been brought to



the notice of the respondent no. 3, it is a public document therefore in the light of the judgment of the Hon'ble Supreme Court in the case of **versus Jigya Yadav versus Central Board of Secondary Examination and Others** reported in **(2021) 7 SCC 535**, respondent no. 3 is obliged to carry on the correction.

5. Learned counsel for the petitioner further submits that the petitioner has taken step for correction of the name of his father and mother by publishing the name of adoptive father and mother in the Gazette on 18.06.2022. It is further stated that the petitioner had filed a succession case showing himself as adopted son of late Saraswati Prasad Pandey and in the said succession case, the learned District Judge, West Champaran, Bettiah has granted him Succession Certificate as back as on 04.02.2009 and it has attained finality. It is, therefore, her submission that on the face of the order of the learned District Judge, West Champaran, Bettiah in Certificate Case No. 33 of 2006, the authorities of the school and the CBSE are obliged to correct their records and issue a fresh certificate to the petitioner.

6. On the other hand, Mr. V.K. Tripathi, learned counsel representing the CBSE has contested the writ



application. It is submitted that this Court sitting under Article 226 of the Constitution of India may not take upon itself to adjudicate upon the adoption deed which is being made basis for seeking correction in the name of father and mother of the petitioner. Learned counsel submits that it is one of those cases in which a declaration of competent court of law where the adoption deed may be duly proved would be required.

7. Learned counsel further submits that at this stage, the CBSE Board has not received a formal application duly recommended by the school, therefore, the submissions of learned counsel for the petitioner that on the basis of the order passed by the learned District Judge, West Champaran in succession case correction may be carried out would be required to be considered by the authorities of the CBSE only and only when the CBSE receives a duly recommended application from the school.

8. It is further submitted that so far as the judgment in the case of **Jigya Yadav** (supra) is concerned, the same would not be applicable in the facts situation of the present case because in none of the 22 cases which were being considered by the Hon'ble Supreme Court, there was any case



of a like nature. The ratio of the judgment cannot be applied in the facts of the present case where four years after passing of the examination and issuance of the certificate the petitioner is seeking change in the name of his father and mother in the certificates.

9. Having heard learned counsel for the petitioner and learned counsel for the CBSE and on going through records, this Court is persuaded to take a view that the reliefs as prayed in this writ application cannot be granted to the petitioner by issuing a writ in the nature of Writ of Madamus. The petitioner does not have any declaratory order from a competent court of law as regards his adoption and at this stage, the CBSE has not received a duly forwarded application with requisite fee for consideration of the request of the petitioner on the basis of the order of the learned District Judge, West Champaran, Bettiah in the succession case.

10. This Court is of the considered opinion that in absence of a declaratory order from a competent court of law what will be the impact/effectiveness of the order of the learned District Judge in succession case would be a matter which should first be considered by the CBSE in accordance



with its by-laws.

11. This Court, therefore, grants liberty to the petitioner to make an appropriate application with all supporting documents with the Principal ST. Michel's Academy, Chhawani, Bettiah, West Champaran (respondent no. 5) within a period of 30 days from today. If any such application is made with all supporting documents subject, however, to the payment of fee/charges if any required, the school shall look into the same and forward the same to the CBSE along with other required documents within a maximum period of 30 days for consideration. On receipt of such recommendation, the CBSE shall look into the request of the petitioner and take an appropriate decision in accordance with law within a period of two months from the date of receipt of such recommendation.

12. This Court has not formed any opinion and it will be an independent exercise by the CBSE.

(Rajeev Ranjan Prasad, J)

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