

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5524 of 2022

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Nishant Raj @ Shaunit Nishant S/o Kaushlendra Jha, R/o Majlis Prannath @
Kharhar, P.S. - Minapur, Town and District - Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Bihar, Patna.
2. The Bihar School Examination Board, Sinha Library Road, Patna through its Secretary.
3. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna.
4. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna.
5. The Assistant Secretary, Bihar School Examination Board, Sinha Library Road, Patna.
6. The Public Information Office, Bihar School Examination Board, Sinha Library Road, Patna.
7. The Headmaster, Ram Krishna High School, Minapur, Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Parasmani, Advocate
For the BSEB	:	Mr.Amarendra Kumar, Advocate
For the State	:	Mr.Pramod Kumar Singh, AC to SC-16

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 24-08-2023 Heard learned counsel for the petitioner and learned
counsel for the Bihar School Examination Board.

2. Petitioner in this case is aggrieved by and dissatisfied with the communication as contained in Letter No. PAT-7178 dated 17.12.2015 issued under signature of the Public Information Officer, Bihar School Examination Board (hereinafter referred to as the 'Board') whereby and whereunder the petitioner has been informed that in view of clause (c) of Regulation 18, Chapter IV of the Bihar School Examination



Regulations 1964 (hereinafter referred to as the 'Regulations of 1964'), the claim for change of name has already been rejected. The petitioner prays for quashing of Letter No. Camp 01 dated 14.01.2021 issued under the signature of Assistant Secretary to the Board by which he has been communicated that there is no provision for correction of name on the basis of Gazette publication and accordingly the claim of the petitioner has been rejected.

3. The petitioner has passed his Secondary School Examination, 2011 with the name "Nishant Raj" and certificate to that effect has been issued. Now, he has changed his name as "Shaunit Nishant" and has got it gazetted in Gazette Publication dated January 31- February 06, 2015.

4. Learned counsel for the petitioner submits that the Board has rejected the request of the petitioner on the above ground, however, the case of the petitioner is liable to be considered in the light of the judgment of the Hon'ble Supreme Court rendered in the case of **Jigya Yadav (Minor) (through guardian/father Hari Singh) Vs. Central Board of Secondary Education and Others** reported in (2021) 7 SCC 535.

5. On the other hand learned counsel for the Board



submits that Regulation 18 of the Regulations of 1964 provides for procedure to be followed for change of name or title. According to clause (c) of Regulation 18, a candidate may even after passing the Boards examination and after the issue of the certificate in his favour, apply to the Secretary through the Head of the Institution for changing his name or title within six months from the issue of certificate from the Board's office stating the reason therein. It is submitted that in the present case, the request for change has been made after about four years. In such circumstance, it is submitted that the Board has rightly refused to carry on the change and issue fresh certificates.

6. This Court has heard learned counsel for the petitioner and the Board. Since learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of **Jigya Yadav (Minor)** (supra), the relevant paragraphs from the judgment of the Hon'ble Supreme Court are being reproduced hereunder for a ready reference:-

“169. This Court in *CIDCO v. Vasudha Gorakhnath Mandevlekar*⁷³, has observed that the records maintained by statutory authorities have a presumption of correctness in their favour and they would prevail over any entry made in the

73. (2009) 7 SCC 283 : (2009) 2 SCC (L&S) 319



school register. The Court observed thus : (SCC p. 288, para 18)

“18. The deaths and births register maintained by the statutory authorities raises a presumption of correctness. Such entries made in the statutory registers are admissible in evidence in terms of Section 35 of the Evidence Act. It would prevail over an entry made in the school register, particularly, in absence of any proof that same was recorded at the instance of the guardian of the respondent. (See *Birad Mal Singhvi v. Anand Purohit*⁷⁴.)”

The same position of law can be extended to the mandate laid down in Right to Education Act and Chapter 3 of the CBSE Bye-laws relating to admission of students. Bye-law 6.1 is instructive and relevant extract thereof reads thus:

“6. Admission : General Conditions:

6.1. (a) A student seeking admission to any class in a ‘School’ will be eligible for admission to that Class only if he:

(iv) produces:

...

(c) For the purposes of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the

74. 1988 Supp SCC 604 : AIR 1988 SC 1796



provisions of the Births, Deaths and Marriages Registration Act, 1886 or on the basis of such other document, as may be prescribed, as stipulated in Section 14(1) of THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009.

(d) No child shall be denied admission in a school for lack of age proof, as stipulated in Section 14(2) of THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009.”

Therefore, even at elementary education level, there is a clear legislative intent to rely on statutory birth certificates for the purpose of date of birth. The authoritative value of these certificates is duly affirmed in this scheme.

170. There is no difficulty in correcting CBSE record to bring it in conformity with the school record. The difficulty arises when a statutory document is not consistent with the school record. As observed earlier, the version supported by statutory documents could be reckoned for the purpose of correction in CBSE certificate to make it consistent with public documents.

171. Post 2018 amendment of Bye-laws, even in case of date of birth, corrections are permitted on two basis — to bring in conformity with school records and in pursuance of court order. The relevant provision reads thus:

“A. Correction as per the school records:

i. Corrections to correct typographical and other errors to make the certificate consistent with



the school records can be made provided that corrections in the school records should not have been made after the submission of application form for admission to Examination to the Board.

B. Correction as per Court Orders:

Applications regarding correction in date of birth of candidates will be considered provided the correction have been admitted by the court of law. In cases of correction in date of birth in documents after the court orders caption will be mentioned on the document “CORRECTION ALLOWED IN DATE OF BIRTH FROM ____ TO ____ ON (DATED) ____ AS PER COURT ORDER NO. ____ DATED ____”.

172. When a student applies to a court of law for prior permission and/or declaration and produces public document(s), the court would enter upon an inquiry wherein the legal presumption would operate in favour of the public document(s) and burden would shift on the party opposing the change to rebut the presumption or oppose the claim on any other ground. The question of genuineness of the document including its contents would be adjudicated in the same inquiry and the court of law would permit the desired change only upon verifying the official records and upon being satisfied of its genuineness. At the same time, the question of justiciability of the requested changes would be considered and only upon being satisfied with the need demonstrated by the student, the court would grant its permission. The said permission can then be placed before the Board along with copy of publication in the Official Gazette and requisite



(prescribed) fee (if any). The Board would then have no locus to make further enquiry nor would be required to enter upon any further verification exercise.”

7. At this stage, this Court is of the considered opinion that no fault may be found with the decision of the Board, however, in the interest of justice, keeping in view the judgment of the Hon’ble Supreme Court, if the petitioner obtains an appropriate declaration from a competent court of law and applies for the change of his name in terms of the judgment of the Hon’ble Supreme Court, the Board shall be obliged to consider the same afresh and take an appropriate decision on the basis of the fresh materials.

8. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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