

D/L. 2.
June 20, 2023.
MNS.

WPA No. 13726 of 2023

Arpita Bhattacharjee
Vs.
The Principal of Barasat Indira Gandhi
Memorial High School and another

Ms. Kakali Dutta,
Mr. Sanjoy Chakraborty,
Ms. Anamika Biswas

... for the petitioner.

Learned counsel for the petitioner files a supplementary affidavit where the petitioner has disclosed candidly that the respondent-school is governed by the CBSE Board and is not a government school or government aided school as such.

However, it is submitted that the Aadhaar Card of the petitioner's minor son has already been corrected to the effect that the minor's surname has been shown to be Bhattacharjee in stead of Ghosal, in line with the maiden surname of the petitioner.

It is, however, submitted that the necessary amendment in the Birth Certificate of the minor is also under process, but is merely being stalled due to the oncoming Panchayat election process.

It transpires from the materials on record that a decree of divorce was obtained by the present

petitioner against her husband. The custody of the minor son thereafter has all along been with the petitioner and it does not appear from the record that any steps were taken by the husband to obtain any order from any court in that regard.

Despite service, the private respondent no. 2-father is not represented in the present writ petition.

Although, strictly speaking, the respondent no. 1/school is not a public entity, the same, in a broader sense, discharges public function in so much as imparting education is one of the functions of the State. That apart, there are several lines of judgement, which propound that even a private person's right can be exercised against a private institution in the event a fundamental right of the person concerned is violated.

The right to change the surname of the petitioner's minor son, in the circumstances of the case, is a part of the right to life of not only the petitioner lady but also the minor son of the petitioner for the future well-being and conduct of education of the child by the petitioner. The same also touches the said minor's right to education.

As such, in such circumstances, the writ petition is decided to be entertained and disposed of, even against a non-government aided school.

Accordingly, WPA No. 13726 of 2023 is allowed, thereby directing the respondent no. 1/school and its concerned officials to allow the change of surname of the petitioner's minor son from 'Ghosal' to 'Bhattacharjee', in consonance with the surname of the petitioner-mother, in its records as expeditiously as possible, preferably within a month from the communication of this order to the respondent no. 1/school.

The petitioner shall communicate this order to the respondent no. 1 immediately and the respondent no.1 and the Principal and/or concerned officials of the school shall act on a server copy of this order, coupled with a communication of the learned Advocate appearing on behalf of the petitioner, without insisting upon prior production of a certified copy of this order, for the purpose of implementation of this order.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)