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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **02.01.2023**

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 30192 of 2022

Ms. Juveria Vasim

... Petitioner

..Vs..

1. The Secretary
CBSE Board of Education
New No.3, Old No. 1630 A,
"J" Block, 16th Main Road
Anna Nagar West,
Chennai – 600040.

2. The Principal
J.S.S.Public School
HBR Layout,
Bangalore – 560 043

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the first respondent to effect a change in the petitioner's name by adding her surname (JUVERIA VASIM instead of JUVERIA) in the X standard certificate issued by the first respondent on 26.05.2013 in Registration Number M113/41038/0004.

For Petitioner :: Mr. K.Selva Kumar

For 1st Respondent :: Mr. G.Nagarajan

**ORDER**

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The petitioner Juveria Vasim is the daughter of Mr. Mahmood Vasim and Mrs. Shaista Parveen. She was born on 06.12.1997 at Joseph's Hospital at Palayamkottai in Tirunelveli District. At the time when the birth certificate was issued, her name was given as Juveria.V. She studied originally at IPE Laxmi Raman Matric Higher Secondary School at Tirunelveli. A transfer certificate was issued to her and her name was given as M.Juveria. She then joined J.S.S.Public School in 8th Standard. In her application for admission, her name was given as Juveria. After she completed her 10th standard, the transfer certificate was issued by the said School with the name Juveria. She had applied for and obtained Aadhar card and her name was given as Juveria Vasim. She had also obtained her Pancard wherein her surname was given as Vasim and her name was given as Juveria. She had then applied to study abroad. But her applications were rejected on the ground that her name in the school certificates were given as Juveria whereas in the Passport, it had been given as Juveria Vasim. She had also issued a paper publication and had also given a notarised affidavit that her name is Juveria Vasim. However, as stated, her application to study abroad had been rejected on the ground that in the school certificate, her name was given as Juveria



but in the passport, her name had been given as Juveria Vasim. She had therefore given necessary representation to the first respondent, namely, the Secretary, CBSE Board of Education at Chennai, seeking correction of her 10th standard mark sheet from Juveria to Juveria Vasim. Since there had been no response from the first respondent, she had filed the present Writ Petition.

2. A counter affidavit had been filed on behalf of the first respondent. In the said counter affidavit, the first respondent had placed reliance on an order of the Hon'ble Supreme Court reported in ***(2021) 7 SCC 535 [Jigyaa Yadav (minor), through Guardian / father Hari Singh Vs. Central Board of Secondary Education and Others]***. The Hon'ble Supreme Court was concerned with many Writ Petitions and litigations filed of similar nature across the country and it therefore thought it prudent to consolidate all the matters and take them on record and a detailed order had been passed. The relevant portions had also been extracted in the counter affidavit. I would also extract the same for better reference:-

*“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 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.*

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 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).

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 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. ”

3. It is clear that in the aforesaid directions that the first respondent had been directed to carry out necessary corrections not only with pending applications but also in future applications. It had also been stated that if ever there is a change in the name requested, the school records would prevail. The first respondent is directed to call upon the petitioner to surrender her original certificate and a fresh certificate is directed to be issued in the correct name as Juveria Vasim. That is the name by which the petitioner is called in the passport. That is the name by which she must be recognised if she seeks to go abroad to study further. It is in that name that her school certificates should be issued.

4. A direction is therefore given to the first respondent to take immediate steps consequent to the representations given by the petitioner to correct the name of the petitioner in the school certificate particularly the 10th standard Certificate with Registration



No. M113/41038/0004 from Juveria to Juveria Vasim. The petitioner should simultaneously surrender her original 10th standard certificate.

5. The certificate issued afresh by the first respondent as Juveria Vasim can be used by the petitioner for all practical purposes and would be the certificate which must be recognised by every authority whenever the petitioner applies for further admission. The said exercise by the first respondent is to be completed on or before 28.02.2023.

6. With the above direction, this Writ Petition stands allowed. No costs.

02.01.2023

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Index: Yes/No

Internet: Yes/No

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C.V.KARTHIKEYAN, J.,

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