

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2023

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THE HONOURABLE MS.JUSTICE P.T.ASHA

WP(MD)No.761/2020

S.Guru Prasad

... Petitioner

Vs.

1.The Directorate of Government Examinations,
State Board of School Examination,
Department of Government Examinations,
Chennai - 600 006.

2.District Educational Officer,
Udumalaipettai

3.The Head Master,
R.V.G Higher Secondary School,
Kurichikottai,
Udumalai Pettai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first respondent to change the petitioner name as Guru Prasad instead of Periyasamy in SSLC Mark Sheet as per Government Gazette dated 26.06.2019.

For Petitioner : Mrs.B.Asha
For Respondents : Mr.M.Ramesh,
Government Advocate

ORDER

The above writ petition is filed seeking a mandamus directing the first respondent to change the name of the petitioner as Guru Prasad instead of Periyasamy in the SSLC Mark Sheet as per Government Gazette dated 26.06.2019.

2. The petitioner has come to this Court stating that he had completed his School Education (SSLC) in the year 2007 from RVG Higher Secondary School, Kurichikottai. Mark Sheet was also issued in his original name Periyasamy. Thereafter, he had decided to change his name as Guru Prasad and on this fact, he has made a Publication in daily Newspaper and Tamil Nadu Government Gazette Notification dated 06.02.2019. Pursuant to the above Publication and Notification, he had made a representation to the third respondent on 09.04.2019 to effect the

change of name in his Mark Sheet. The letter was forwarded to the second respondent as well. On 06.06.2019, the second respondent issued a reply stating that his name could not be changed in the Mark Sheet and if necessary, the copy of the the Government Gazette Notification could be attached to the copy of his Mark Sheet.

3. The petitioner would submit that since there was a spelling mistake (Guruprasath) in the Government Gazette Notification dated 06.02.2019, he had rectified the error and issued a fresh Publication, which is duly gazetted on 26.06.2019. Thereafter, once again, he has addressed a representation on 14.11.2019 to the Department of Government Examinations, Chennai to incorporate his name as Guru Prasad instead of Periyasamy. The third respondent ignored the request and did not send any reply. Thereafter, he had addressed a letter dated 29.11.2019 to the Public Information Officer about the status of his representation. On 12.12.2019, he had got a reply stating that the name could not be changed in the Mark Sheet after it was issued. Once again, it was reiterated that he can, if required, attach the Government Gazette

Notification with the Mark Sheet. The petitioner would submit that all his documents like Aadhar Card, Driving Licence, Passport, Pan Card, etc., shows his name as Guru Prasad and not as Periyasamy. Therefore, there is every possibility of there being some dispute with regard to the Identity of a person. Hence, the writ petition.

4. Heard the learned counsels appearing on either sides.

5. The question of change of name was considered by the Principal Bench of this Court in an earlier unreported Judgment in the case of *Minor Raana Cariappa Kalianda vs. The Central Board of Secondary Education and another in WP.No.20171/2019* wherein it is observed as follows:

"4. The above reasoning of the 1st respondent/Central Board of Secondary Education, is not in consonance with the intention of the petitioner as well as the law. The birth name of the petitioner herein has been now changed and wide publicity has been

given both in the Government Gazette as well as Local daily as required under the law. Pursuant to that, the name of the petitioner has been changed in the Aadhar Card and other records. Unless and until, the petitioner Educational certificate also carries the present name, there will be confusion in the identity of the person and it will be misleading. Once a person opts to change his name and carries out the necessary change by publication in the Government Gazette as required under law, the said change should be uniformly carried out in all the documents to retain the uniqueness of the identity. If the contention of the 1st respondent, accepted, that the name change will only have prospective effect and not retrospective effect, then a person will be having more than two names on record and the identify of the person will be misleading. Therefore, the reasoning given by the 1st respondent for refusing to carry out the correction in the mark sheet is untenable and against the spirit of law.

5. In the said circumstances, the Writ Petition is Allowed. The 1st respondent is hereby directed to re-consider the request of the petitioner herein and pass appropriate order, within a period of four weeks from today..."

Thereafter, the Kerala High Court in the case of *Kailash Gupta vs. CBSE* reported in *2020 SCC Online Ker 1590* had stated as follows:

"8. Name is something very personal to an individual. Name is an expression of one's individuality, one's identity and one's uniqueness. Name is the manner in which an individual expresses himself to the world at large. It is the foundation on which he moves around in a civil society. In a democracy, free expression of one's name in the manner he prefers is a facet of individual right. In Our Country, to have a name and to express the same in the manner he wishes, is certainly a part of right to freedom of speech and expression under Article 19 (1) (a) as well as a part of the right to liberty under Article 21 of

the Constitution of India. State or its instrumentalities cannot stand in the way of use of any name preferred by an individual or for any change of name into one of his choice except to the extent prescribed under Article 19(2) or by a law which is just, fair and reasonable. Subject to the limited grounds of control and regulation of fraudulent or criminal activities or other valid causes, a bonafide claim for change of name in the records maintained by the Authorities ought to be allowed without hesitation."

In the above Judgment, Kerala High Court had observed that to have a name and to have it expressed in a particular manner is a right of freedom of speech and expression under Article 19 (1) (a) of the Constitution of India as well as right to liberty under Article 21 of the Constitution of India. The above two Judgments have been referred to in a later Judgment of Allahabad High Court in the case of *Kabir Jaiswal vs. Union of India and others* reported in *AIR Online 2020 All 2620*, wherein, the learned Judge after considering the Judgments had held as follows:

"27..... Thus, I have no hesitation in holding that the right of freedom of expression guaranteed to the petitioner under Article 19 (1) (a), in the present case freedom of expression through change of name, cannot be denied to the petitioner and he is entitled to change his name."

6. In the light of the above Judgments, I have no reason to deny the relief to the petitioner and accordingly, this writ petition is allowed. The first respondent is directed to effect the name change within a period of four weeks from the date of receipt of a copy of this order. No costs.

23.03.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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To

1.The Directorate of Government Examinations,
State Board of School Examination,
Department of Government Examinations,
Chennai - 600 006.

2.District Educational Officer,
Udumalaipettai

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P.T.ASHA, J.

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