



WP(MD)No.5809 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.5809 of 2016

Vinodhiya

: Petitioner

Vs.

1.The Secretary,
Department of School Education,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

2.The Director,
Department of School Education,
DPI Complex,
College Road, Nungambakkam,
Chennai – 34.

3.The District Elementary Educational Officer,
O/o.The District Elementary Educational Officer,
Dindigul.

4.The Inspector,
Matriculation Schools,
Dindigul.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents to pass appropriate orders on the representation of the petitioner dated 12.01.2016.



WP(MD)No.5809 of 2016

For Petitioner : No representation

For Respondents : Mr.A.Kannan,
Additional Government Pleader

ORDER

The petitioner, who is the mother of two minor children, has approached this Court for a mandamus directing the respondents to pass appropriate orders on her representation dated 12.01.2016.

2.According to the petitioner, she got married with one Rajesh Kannan and out of the wedlock, they were blessed with two children. The said Rajesh Kannan died due to electrocution on 03.02.2013, leaving the petitioner and the children in lurch. Thereafter, she got married with one R.Kariamal on 03.03.2014 and the said marriage was also registered. The said Kariamal is taking good care of the petitioner and the children.

3.The grievance of the petitioner is that in the school records, the father's name of her children is mentioned as Rajesh Kannan [biological father] and the colleagues, school-mates and others are making a topic out of the same, causing mental agony to the minor children. Therefore, she has made a representation to



the respondents to alter the father's name of her children from Rajesh Kannan [biological father] to Kariyamal [step father] in the school records. Since the said representation does not evoke any response, she has moved the instant writ petition.

4. There is no representation for the petitioner / party-in-person.

5. The Hon'ble Supreme Court, in a similar circumstances, in ***Akella Lalitha v. Konda Hanumantha Rao and Others*** [MANU/SC/0929/2022], has held that the mother, being the only natural guardian of the child, has the right to decide the surname of the child. The relevant portion from the said decision is extracted as under:-

“10. After the demise of her first husband, being the only natural guardian of the child, we fail to see how the mother can be lawfully restrained from including the child in her new family and deciding the surname of the child. A surname refers to the name a person shares with other members of that person's family, distinguished from that person's given name or names; a family name. Surname is not only indicative of lineage and should not be understood just in context of history, culture and lineage but more importantly the role it plays is with regard to the social reality along with a sense of being for children in their particular



environment. Homogeneity of surname emerges as a mode to create, sustain and display 'family'.

11. The direction of the High Court to include the name of the Appellant's husband as step-father in documents is almost cruel and mindless of how it would impact the mental health and self-esteem of the child. A name is important as a child derives his identity from it and a difference in name from his family would act as a constant reminder of the factum of adoption and expose the child to unnecessary questions hindering a smooth, natural relationship between him and his parents. We, therefore, see nothing unusual in Appellant mother, upon remarriage having given the child the surname of her husband or even giving the child in adoption to her husband."

6. In view of the above position, this Court holds that the petitioner, being the only natural guardian of the minor children, has the right to decide the initial of her children. However, it appears that pending the writ petition, one of her children has attained majority. Since the petitioner / party-in-person is not before this Court, the willingness of the parties could not be ascertained. Under such circumstances, this Court is passing the following order:-

The writ petition is allowed. The respondents 3 & 4, after ascertaining the willingness of the petitioner and the child who attained majority, shall pass appropriate orders changing the father's name in the



WP(MD)No.5809 of 2016

records, by considering the petitioner's representation dated 12.01.2016, within a period of eight weeks from the date of receipt of a copy of this order. If the younger child, after attaining majority, wants to have the biological father's name as the initial, the same shall be carried out, on filing of appropriate application. There shall be no order as to costs.

Index : Yes / No

22.02.2023

Internet : Yes

gk

To

- 1.The Secretary,
Department of School Education,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.
- 2.The Director,
Department of School Education,
DPI Complex,
College Road, Nungambakkam,
Chennai – 34.
- 3.The District Elementary Educational Officer,
O/o.The District Elementary Educational Officer,
Dindigul.



WP(MD)No.5809 of 2016

B.PUGALENDHI, J.

gk

4.The Inspector,
Matriculation Schools,
Dindigul.

WP(MD)No.5809 of 2016

22.02.2023