

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(263)

CWP-20136-2020

Date of decision: - 16.03.2023

Palak Bansal

....Petitioner

Versus

Central Board of Secondary Education

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Anshul Mangla, Advocate
for the petitioner.

Mr. Beant Singh Seemar, Advocate
for the respondent-CBSE.

VIKAS BAHL, J. (ORAL)

This is a Civil Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorari to quash the communication dated 17.01.2020 (Annexure P-6) issued by the respondent.

Learned counsel for the petitioner has referred to the order dated 26.11.2020, vide which notice of motion has been issued. The relevant portion of the said order passed by Co-ordinate Bench of this Court is reproduced herein below: -

“It is submitted by the counsel for the petitioner that the biological father of the petitioner had expired wayback in 1995. Thereafter, the mother of the petitioner had contracted marriage with real uncle of the petitioner. Hence, the petitioner and her other siblings were adopted by the new husband of their mother. The

petitioner had even sought a declaration from the civil Court regarding the new husband of her mother being the adoptive father of the petitioner. That suit was also decreed. However, in the matriculation certificate, issued by the respondent-Board, inadvertently, the name of the biological father of the petitioner has been written, whereas, in the 10+2 certificate, issued by the same respondent-Board, the name of the adoptive father of the petitioner has been mentioned. Not only this, the petitioner has even obtained the passport with the name of her adoptive father. However, now the discrepancy in the matriculation certificate is creating problem for the petitioner. The petitioner had requested the respondent-Board to correct the discrepancy. However, they have not done the needful.

Notice of motion.

Mr. B.S. Seemar, Advocate, has put in appearance on behalf of the respondent Board and seeks time to file written statement.

Adjourned to 25.2.2021.

Written statement be filed well in advance with advance copy to the counsel opposite.

(RAJBIR SEHRAWAT)
JUDGE

26.11.2020”

Learned counsel for the petitioner has submitted that a decree has already been passed declaring the petitioner to be the adopted daughter of Anil Kumar Bansal. It is further submitted that the said civil suit had declared the status of the present petitioner and thus, the said judgment is a judgment in rem and in the said case, all the parties which are necessary for adjudication of the case were made party. It is also submitted that since in a suit for declaration with respect to the status of the plaintiff, the core issue was as to whether the petitioner is the daughter of adopted father Anil Kumar Bansal and there was no issue as to whether the certificate issued by the CBSE is correct or not, thus, the said CBSE-Board was not required to be made a party. It is stated that the

decree dated 24.05.2011 has attained finality and the same has not been set aside and thus, the authorities including the CBSE-Board should on the basis of the said decree rectify the name of the father in the matriculation certificate dated 29.05.2008. It is further stated that in the 10+2 certificate, the CBSE-Board had already mentioned the name of adopted father of the petitioner.

Learned counsel for the petitioner has submitted that the entire issue with respect to changes/corrections to be made in the certificate issued by the Central Board of Secondary Education has been adjudicated upon by the Hon'ble Supreme Court in a detailed judgment passed in case titled as “**Jigyada Yadav (minor) (through Guardian/father Hari Singh) Vs. CBSE (Central Board of Secondary Education) and others**”, and other connected matters reported as **2021(7) SCC 535** by a three Judge Bench of the Hon'ble Supreme Court and has prayed that the petitioner be permitted to file representation keeping in view the parameters laid down in the abovesaid judgment and prays that the respondents be directed to consider the said representation and pass a speaking order within a period of six weeks from the date the said representation is received by the respondent.

Learned counsel for the petitioner further submitted that since the order dated 17.01.2020 was prior in time to the judgment passed in the above-said case, thus, the impugned order deserves to be set aside and the matter requires to be reconsidered in the light of the facts and circumstances and also in view of the law laid down in **Jigyada Yadav's case (supra)**.

Learned counsel appearing on behalf of the respondent-CBSE has submitted that the entire aspect would be considered and a fresh decision would be taken regarding the same. It is further submitted that in the present case, the rectification is being thought after a period of 12 years, but the respondent-Board is ready to reconsider the matter.

Keeping in view of the above-said facts and circumstances, the impugned order/communication dated 17.01.2020 (Annexure P-6) is set aside and the present Civil Writ Petition is disposed of in the following terms:-

- 1) The petitioner is granted liberty to file a detailed representation and annex all the documents in light of the judgment passed by the Hon'ble Supreme Court in ***Jigyada Yadav (minor)'s case*** (Supra). Learned counsel for the petitioner has stated that the petitioner would submit the said representation along with certified copies of the relevant record and would get the said representation forwarded through the school.
- 2) Respondent is directed to decide the said representation as expeditiously as possible preferably within a period of six weeks from the date of receipt of the said representation, in accordance with law.

Needless to mention here that it would be open to the respondent-Board to require the petitioner or the school to submit any document which would be required for finally considering the case of the petitioner.

March 16, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No