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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11250/2021

PRAGATI SHRIVASTAVA Petitioner
Through: Mr. Anilendra Kant Srivastava,
Adv.

versus

THE SECRETARY, CENTRAL BOARD OF
SECONDARY EDUCATION AND ANR Respondents
Through: Mr. Ashok Kumar, Ms. Chhavi
Arora, Advs. for R-1
Mr. Romy Chacko and Mr. Sachin Singh
Dalal, Advs. for R-2

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (ORAL)

% **10.04.2024**

1. The petitioner, by means of this writ petition, seeks that the name of her father, which is recorded in her Secondary School Examination (Class X) and the Senior School Certificate Examination (Class XII) marksheets issued by the CBSE as “D.N. Srivastav” be changed to “Surendra Prasad Shrivastav”.

2. Two facts need to be noted at this stage.

3. The first is that there is no document on record which reflects the name of the father of the petitioner as “D.N. Srivastav”. Though the respondent school has, in para 6 of its counter affidavit, stated that, while obtaining registration to Class IX in 2013-14, the petitioner had



herself entered her father's name as "D.N. Srivastav". The record reveals that this is not correct.

4. In the form filled in by the petitioner at the time of securing registration to Class IX, the petitioner has specifically entered "D.N. Srivastav" as the name of her guardian, scoring off "parents". There is, in fact, to repeat, no document in which the petitioner has ever reflected the name of her father as "D.N. Srivastav" though it is true that "D.N. Srivastav" has been shown by the petitioner as her guardian in some documents.

5. As such, the record reveals that the petitioner's father is certainly not "D.N. Srivastav".

6. The second fact to be noticed relates to the submission of Mr. Ashok Kumar, learned Counsel appearing for the CBSE, that the CBSE entered the "D.N. Srivastav" name of the petitioner's father as per the information conveyed to the CBSE by the respondent school. No doubt, if the respondent school intimated the CBSE that the name of the petitioner's father is "D.N. Srivastav", the CBSE could not be faulted for accepting that communication and entering "D.N. Srivastav" as the name of the petitioner's father in her Board Examination marksheet.

7. Mr. Sachin Singh Dalal, learned Counsel for the respondent school submits that the school had intimated the CBSE that the petitioner's father name was "D.N. Srivastav" as, in the application



form filled in by the petitioner's mother at the time of securing admission to Class VIII, her father's name was entered as "Devanand Shrivastava". However, in the counter affidavit filed before this Court, the School has clarified that, as this name did not match with the name of the petitioner's father as entered in the school leaving certificate issued by the St Xavier's High School, which reflected her father's name as "Shrivastava Surendra Prasad", the School contacted the petitioner's mother, who acknowledged the fact that the petitioner's father's name was indeed "Surendra Prasad Shrivastava" but that, as he had expired, the petitioner was entering the name of her uncle as her guardian at that point of time.

8. In any event, as "D.N. Srivastav" is clearly not the name of the petitioner's father, the Class X and Class XII school leaving certificates of the petitioner would have necessarily to be corrected.

9. The law relating to change of name of a student, or of her or his parent, in the certificate issued by the CBSE, has been exhaustively discussed by the Supreme Court in *Jigyada Yadav v. CBSE*¹, which may be regarded as the authority on the point.

10. In *Jigyada Yadav*, the Supreme Court has set out the legal position thus:

"168. The bye-laws provide for a two-tier mechanism for recording change of name or other details (as indicated above). One of them is prior permission or declaration by a court of law to be obtained. *As regards public documents like birth certificate,*

¹ (2021) 7 SCC 535



Official Gazette, Aadhaar Card, election card, etc. the same enjoy legal presumption of its correctness in terms of explicit provisions contained in Chapter V of the 1872 Act. The 1872 Act extends such presumption in terms of Section 76 read with Sections 79 and 80 of the 1872 Act and as in the case of Official Gazette under Section 81 of the same Act. Even other legislations concerning public documents attach equal importance to the authenticity of such documents including while making changes in their certificates to which we have alluded to in this judgment. Understood thus, there is no reason for the CBSE Board to not take notice of the public documents relied upon by the candidate and to record change on that basis in the certificate issued by it, for being consistent with the relied upon public documents. It matters not if the information furnished in the public documents is not entirely consistent with the school records of the incumbent. The CBSE while accepting those documents as foundational documents for effecting changes consistent therewith may insist for additional conditions and at the same time while retaining the original entry make note in the form of caption/annotation in the fresh certificate to be issued by it while calling upon the incumbent to surrender the original certificate issued by it to avoid any misuse thereof at a later point of time. It would be permissible for the CBSE to insist for a sworn affidavit to be given by the incumbent making necessary declaration and also to indemnify the CBSE. The fresh certificate to be issued by the CBSE may also contain disclaimer of the Board clearly mentioning that change has been effected at the behest of the incumbent in light of the public documents relied upon by him. In addition, the incumbent can be called upon to notify about the change in the Official Gazette and by giving public notice as precondition for recording the change by way of abundant precaution.

172. When a student applies to a court of law for prior permission and/or declaration and produces public document(s), the court would enter upon an inquiry wherein *the legal presumption would operate in favour of the public document(s) and burden would shift on the party opposing the change to rebut the presumption or oppose the claim on any other ground.* The question of genuineness of the document including its contents would be adjudicated in the same inquiry and the court of law would permit the desired change only upon verifying the official records and upon being satisfied of its genuineness. At the same time, the question of justiciability of the requested changes would be considered and only upon being satisfied with the need demonstrated by the student, the court would grant its permission.



The said permission can then be placed before the Board along with copy of publication in the Official Gazette and requisite (prescribed) fee (if any). The Board would then have no locus to make further enquiry nor would be required to enter upon any further verification exercise.”

(Emphasis supplied)

11. Thus, according to the Supreme Court, where there are public documents which support the case of the petitioner, the Court may legitimately take the said public documents into account while deciding whether or not to grant relief. The fact that the public documents may not tally with the school records would be of no significant consequence; however, in such a case, the CBSE may be permitted to indemnify itself by seeking an affidavit from the candidate concerned, or inserting a disclaimer in the certificate to the effect that the change in name has been made at the behest of the candidate, in the light of public documents produced by him.

12. In the present case,

- (i) the Birth Certificate of the petitioner reflects the name of the petitioner’s father as “Surendar Prasad Shrivastav”,
- (ii) the Aadhar Card of the petitioner reflects her father’s name as “Surendra Srivastav”,
- (iii) the Domicile Certificate issued by the UP Government reflects the name of the petitioner’s father as “सुरेन्द्र श्रीवास्तव”,
- (iv) the ration card held by the petitioner’s mother reflects her as the widow of “सुरेन्द्र प्रसाद”, and
- (v) the Class VI/VII/VIII evaluation report of the St. Xavier’s High School reflects the petitioner’s father’s name as



“(late) Mr. Surendra Shrivastav”.

13. Mr. Ashok Kumar, learned Counsel for the CBSE, submits that if the public documents were to clearly reflect the name of the petitioner’s father as “Surendra Prasad Shrivastav”, which is the correction which the petitioner requires, the court might be in a position to grant relief. However, there is no public document placed on record which reflects the petitioner’s father name as “Surendra Prasad Shrivastav”, spelt as in the prayer clause in this writ petition.

14. Factually, Mr. Ashok Kumar is correct. There is in fact no public record which reflects the petitioner’s father name as “Surendra Prasad Shrivastav”, spelt thus.

15. However, the Court has to adopt a realistic approach in such cases, keeping in mind the pre-eminent consideration, repeatedly emphasized in *Jigyā Yadav*, that a name is an identity marker, and that the right to be identified by one’s name, as also as the daughter or son of parents whose name is correctly mentioned, is fundamental to one’s very identity as an individual. It partakes, therefore, of a primordial necessity, and the Court has, when petitioned in that regard, to ensure that the request, if genuine, is acceded to.

16. In the present case, there is another, apparent, reason why the Court has to be pragmatic in its approach. If, despite the material that the petitioner has placed before this Court, she were to be denied relief, her father’s name would continue to be reflected, in her Xth and



XIIth CBSE Certificates, as “D N Srivastav”. In the face of the admitted position that D N Srivastav is *not* the petitioner’s father, this position cannot be allowed to continue. While examining the material relied upon by the petitioner to justify her prayer for change of her father’s name in her certificates, the Court has, therefore, to be practical, not pedantic, in its approach.

17. The Birth Certificate of the petitioner, which is one of the most important public records, and which enjoys a presumption of correctness under Sections 74 of the Indian Evidence Act, 1872, does reflect the petitioner’s father name as “Surendar Prasad Shrivastav”, though there may be a spelling mismatch between the name as shown in the birth certificate which spells the first name of the petitioner’s father as “Surendar” instead of “Surendra” and the last name as “Shrivastav” instead of “Shrivastava”. When, however, this document is juxtaposed with the Aadhar Card of the petitioner which reflects her father’s name as “Surendra Srivastav” and the domicile and ration card held by the petitioner’s mother which reflects the petitioner’s father name in vernacular as “सुरेन्द्र श्रीवास्तव”, it is difficult for the court to continue to retain doubts about whether the petitioner’s father name is indeed “Surendra Prasad Shrivastav”. It must also be recollected that, in such cases when one transliterates the name from vernacular to English, the spellings may differ. For example, the name “श्रीवास्तव”, when transliterated to English, could be written as “Shrivastav” or “Shrivastava” or “Srivastav” or “Srivastava”.

18. The Court cannot be hyper technical in such matters and start



rejecting the prayer for correction merely because of a slight difference in spelling between “Shrivastav” and “Shrivastava”, and “Surendar” and “Surendra”.

19. If one is to take a holistic view of the matter and juxtapose the names of the petitioner’s father in Hindi as well as in English as contained in public documents which are placed on record, applying the principles contained in paras 168 and 172 of *Jigyada Yadav*, the Court is convinced that a case for correction of the name of the petitioner’s father to “Surendra Prasad Shrivastav”, as sought in the writ petition, is made out.

20. Accordingly, the writ petition is allowed. The CBSE is directed to forthwith issue fresh Class X and Class XII marksheets to the petitioner reflecting the name of her father as “Surendra Prasad Shrivastav”, as sought in the prayer clause in the writ petition.

21. As envisaged by para 168 of *Jigyada Yadav*, the petitioner is, however, directed, in the facts of the present case and in view of the fact that there are slight differences in the spelling of the name of her father as reflected in various public documents, to furnish an affidavit to the CBSE specifically deposing that the name of her father is “Surendra Prasad Shrivastav” and indemnifying the CBSE in that regard.

22. Needless to say, the petitioner would fulfil the requisite formalities and pay the requisite fees to ensure the change of name as



aforesaid.

23. The petitioner is directed to contact the CBSE along with the requisite affidavit and documents and pay the appropriate fee within one week from today, whereafter the CBSE shall comply with this order within four weeks thereof.

C. HARI SHANKAR, J.

APRIL 10, 2024

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Click here to check corrigendum, if any