

**HIGH COURT OF MADHYA PRADESH: BENCH AT
INDORE**
SINGLE BENCH:HON'BLE SHRI JUSTICE VIVEK RUSIA

WRIT PETITION No.2856/2018

SANDEEP WASKALE

Vs.

**CENTRAL BOARD OF SECONDARY EDUCATION &
ANOTHER**

Shri Dinesh Rawat, learned counsel for the petitioner.
Shri Akhil Godha, learned counsel for the respondent
No.1.
None for the respondent No.2, though served.

Whether approved for reporting:

Reserved on 28.08.2018

ORDER
(Passed on 06/09/2018)

The petitioner has filed the present petition being aggrieved by the order dated 03.10.2017 by which the application seeking correction of his name in the mark-sheet of Secondary School Examination, 2007 has been rejected by the respondent No.1/Central Board of Secondary Education (in short, hereinafter referred as "CBSE").

According to the petitioner, his correct name is "Sandeep Waskale" but the respondent No.1/CBSE has wrongly mentioned it as "Sandeep Singh Waskale" in the mark-sheet. He submits that in all his mark-sheets from

Class 1 to 9 and thereafter from 11 to Graduation his name is mentioned as Sandeep Waskale. In Voter ID Card, Adhar Card & PAN Card, his name is also mentioned as Sandeep Waskale.

The petitioner has passed the written examination of MPPSC and called for the interview, his name in the selection list is mentioned as Sandeep Waskale. Thereafter, vide order dated 23.12.2016 he has been selected by the MPPSC and in merit selection list also his name is mentioned as Sandeep Waskale. The petitioner is apprehending that the error in his name in the mark-sheet issued by the CBSE may result in great hardship to secure the appointment. Therefore, petitioner submitted an application to the respondent No.2 seeking correction of his name in the mark-sheet. The respondent No.2 vide letter dated 21.08.2017 has forwarded the same to the CBSE. By impugned order dated 03.10.2017, the CBSE has rejected the application by placing reliance over the Rule 69.1 (ii) that application has not been submitted within 1 year (now 5 years) from the date of declaration of result, hence, the present petition before this Court.

Shri Dinesh Rawat, learned counsel for the petitioner submits that in Scholar Register maintained by the respondent No.2, the name of the petitioner was rightly recorded as Sandeep Waskale and the photocopy of same register was sent to the CBSE, but without any reason and justification, while issuing the mark-sheet, CBSE No.1

has unnecessarily add the word “Singh” between his name and surname and same is causing problem to the petitioner for securing his appointment. In all the identity cards issued by the Government authorities his correct name is mentioned as Sandeep Waskale. The respondent No.2 has also certified by letter dated 21.08.2017 that in scholar register his name is mentioned as Sandeep Waskale.

By order dated 06.08.2016 this court has directed the respondent No.1 to produce the original record of the application form submitted by the petitioner for taking 10th Board Examination in the year 2007. In compliance of the aforesaid order, the counsel for the CBSE has produced photocopy of the Scholar Register sent by the respondent No.2. In the Scholar Register, name of the petitioner is also mentioned as Sandeep Waskale.

Shri Akhil Godha, learned counsel for the respondent No.1 submits that the case of the petitioner was rightly rejected on the basis of amended Rule 69.1 (ii) in which the limitation for submitting the application for correction of name, father's name, mother's name etc is 5 years and admittedly, the petitioner has submitted application after 10 years of the issuance of mark-sheet, therefore, the CBSE has rightly rejected the same. This High Court in identical matter has already dismissed numerous writ petitions considering the aforesaid rules, hence, the present petition is not maintainable. The petitioner is having liberty to approach the Civil Court to establish the claim

relating to the change of name/surname. In support of his contention, he has placed reliance over the judgement passed by the Delhi High Court in case of *Vyanjana Vs. The Chairman.C.B.S.E & Another (W.P.No.1063/2016) & Aditya Srivastava (Minor) Through Natural Guardian Mother Vs. Central Board of Secondary Education & Another, reported in 2017 (237) DLT 268* & the judgement passed by this Court in case of *Tanishq Agrawal Vs. Central Board of Secondary Education (W.P.No.229/2016)*.

The petitioner has filed the photocopy of the mark-sheet issued by the District Primary Education Board 2001-2002, mark-sheet of the Higher Secondary School Certificate Education, 2009 issued by the Board of Secondary Education in which his name is mentioned as Sandeep Waskale. He has also filed the copy of Adhar Card and Voter ID Card issued by the Election Commission of India, the PAN issued by the Income Tax Department in which his name is mentioned as “Sandeep Waskale”. Hence, except in the mark-sheet issued by the CBSE his name is recorded as Sandeep Waskale in all records available to him.

In every document his name is mentioned as Sandeep Waskale. Even respondent No.2 has certified that the petitioner's name in the Scholar Register was recorded as Sandeep Waskale, therefore, undisputedly, the correct name of the petitioner is Sandeep Waskale. The

respondent No.1/Board receives the information about the candidate from the concerned school. The student never directly applies to the Central Board of Secondary Education for appearing in the examination. It is clear from the letter written by the respondent No.2 and photocopy of the school register produced by the Board, the name of the petitioner was sent as Sandeep Waskale but while issuing the mark-sheet CBSE has wrongly mentioned his name as Sandeep Singh Waskale, therefore, since there is no disputed question of fact involved in this case, hence, the petitioner cannot be relegated to the civil Court for obtaining the decree in respect of his claim for correction for the name.

This is not the case where the petitioner has applied for change of his name in the mark-sheet. He has applied for correction of a mistake done by the Central Board of Secondary Education. The petitioner was not at fault as he correctly submitted all the documents before respondent No.2 and there is no mistake on part of the respondent No.2 also, therefore, the CBSE has wrongly rejected the claim of the petitioner on the technical ground that he submitted his application beyond the period of limitation.

That Rule 69.1 (ii) & Rule 69.2 are reproduced below:

“69.1 (ii) Correction in name to the extent of correction in spelling errors, factual typographical errors in the Candidate's name/Surname, Father's name/Mother's name or Guardian's name to make it consistent with what is given in the school record or list of candidates (LOC) submitted by the school may be made.

Application for correction in name of Candidate/Father's/Mother's/Guardian's name will be considered only within one year of the date of declaration of result provided the

application of the candidate is forwarded by the Head of Institution with the following attested documents:

xxx xxx

xxx xxx

69.2 (i) No change in the date of birth once recorded in the Board's records shall be made. However, corrections to correct typographical and other errors to make the certificate consistent with the school records can be made provided that corrections in the school records should not have been made after the submission of application form for admission to Examination to the Board.

(ii) Such correction in the Date of Birth of a candidate in case of genuine clerical errors will be made under the orders of the Chairman where it is established to the satisfaction of the Chairman that the wrong entry was made erroneously in the list of candidates/application form of the candidate for the examination.

(iii) Request for correction in Date of Birth shall be forwarded by the Head of the School alongwith attested Photostat copies of:

xxx xxx

xxx xxx

(iv) The application for correction in the date of birth duly forwarded by the Head of School alongwith documents mentioned in byelaws 69.2(iii) shall be entertained by the Board only within one year of the date of declaration of result. No correction whatsoever shall be made on application submitted after the said period of one year.”

(emphasis

supplied)”

That rule 69.1(ii) of the Examination Rules framed by the CBSE is in two parts. As per the rules, the limitation of 1 year (now it is 5 years) is not applicable for those candidates who applies for correction in the name to the extent of correction in spelling errors, factual typographical errors in the Candidate's name/Surname, Father's name/Mother's name or Guardian's name to make it consistent but when he is seeks correction of his name & name of father and mother, then there is period of limitation, therefore, the respondent No.1/CBSE has wrongly applied the provision of 69.1 (ii) in case of the

petitioner as there is a factual typographical error in the name of the petitioner in the mark-sheet by the CBSE. He has never applied for correction in the name. The case of the petitioner falls in the first part of Rule 69.1 (ii) not in the second part, hence, impugned order is set aside. The CBSE is directed to issue a fresh mark-sheet of Secondary School Examination, 2007 to the petitioner mentioning his name as “Sandeep Waskale”. The petitioner is also directed to surrender the original mark-sheet to the Central Board of Secondary Education. Petitioner is also directed to submit a declaration before the CBSE that he has never used the name “Sandep Singh Waskale” for securing admission or any other benefit till date.

Subject to furnishing such a written undertaking and original mark-sheet of Secondary School Examination, 2007, the CBSE shall issue a fresh mark-sheet mentioning the name of the petitioner as “Sandeep Waskale”.

Petition stands **disposed of**.

(VIVEK RUSIA)
Judge

Jasleen