

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.7536 of 2017

K.Gowtham Subramaniam ... Petitioner

Versus

1. The Controller of Examination
Anna University, Guindy Campus
Chennai 600 025
2. The Secretary
School of Education Department,
Fort St.George, Chennai 9
3. The Director of Government Examination
DPI Complex, College Road, Chennai - 6
4. Union of India
Represented by its Secretary
Health and Family Welfare Department,
New Delhi
[R-4 is Suo Motu impleaded as per order
dated 28.03.2017 by N.K.K.]
in W.P.No.7536 of 2017] ...
Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents herein to make necessary changes in petitioner's School and college certificates based on the petitioner's representation 18.01.2017.

For Petitioner : Mr.T.Arockia Dass for
M/s.Dass and Viswa Associates
For Respondent-1 : Mr.L.P.Shanmugasundaram
For Respondents 2 & 3 : Mr.V. Anandhamurthy
Additional Government Pleader
For Respondent-4 : Mr.Venkatasamy Babu

ORDER

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus, directing the respondents herein to make necessary changes in the School and the College certificates based on the representation dated 18.01.2017 indicating the petitioner's present name, instead of earlier name, on account of the subsequent event of Sex-Reassignment surgery underwent by the petitioner.

2. The petitioner was born as a female with name S.Rekkha Kaliyamoorthy and completed her schooling with good marks. The petitioner also had pursued graduation in B.E. (Computer Science and Engineering) in Anna University and completed the same in the year 2012 with distinction. The petitioner, though identified as a female at the time of birth, had always felt and lived like a man. When the petitioner consulted Dr.Amrit Bodani, he was advised to undergo hormone therapy followed by sex re-assignment surgery. Accordingly, the petitioner underwent hormone replacement therapy

and psychology test. After completion of the treatment, a Surgery was performed and was issued a certificate stating that the petitioner is a transgender and he underwent sex re-assignment surgery. Later, the petitioner had changed his name as K.Gowtham Subramaniam and published the same in the Tamil Nadu Government Gazette and presently employed in a private company as a male. It is stated that the certificates from the School to College bear the name of the petitioner prior to the sex re-assignment surgery. Therefore, the petitioner had approached the respondents to carry out the necessary changes in the certificates and also gave written representations to them. Since the petitioner's representations were not considered, the petitioner has come before this Court by way of this writ petition.

3. The authorities, in the absence of any precedent or provision, had not complied with the request of the petitioner. The first respondent has replied vide reference L.R.No.114/COE/C21/2016-44898 dated 03.11.2016, directing the petitioner to get a certificate from the District Magistrate, as per the Transgender (Protection of Rights Bill, 2016). As the Bill has not been passed, the petitioner is unable to get a certificate as stated by the first respondent. In such circumstances, when a transgender undergoes a sex re-assignment surgery and makes an application thereafter for changing of name and

sex in the relevant records on the basis of the various documents including documents issued by the medical officer, the educational authorities or the concerned authorities are expected to verify the records and make consequential changes in the concerned records. Merely because the petitioner belongs to the third gender, he or she cannot be made to run from pillar to post on the ground that there are no rules available permitting such changes. The petitioner also produced the Doctor Certificate issued on 08.05.2014 and another certificate dated 11.06.2014 certifying that she has been assessed by a Psychologist and deemed fit for female to male sex change surgery. The petitioner also had produced the medical certificate dated 12.09.2014 from Yanhee International Hospital, Bangkok, certifying that the petitioner suffered from Gender Identity Disorder and that a surgery was performed on 10.09.2014 for sex re-assignment. The petitioner also had produced his Aadhar Card obtained subsequently in the present name. The petitioner has also produced sufficient documents to prove his identity and the authorities ought to have considered his application on merits. In fact, the authorities, in the nature of the present case, should readily extend their helping hand rather than denying the same looking down upon them.

4. In the light of the above facts, this Court is of the opinion that the petitioner should be granted relief sought for and he is entitled to the name mentioned in the certificates to be changed by mentioning the present name, which is on account of sex re-assignment surgery performed in an International Hospital in Bangkok. Subsequent Doctor certificates and Psychologist Certificate also go to show that the petitioner has become a complete male. While so, there cannot be any impediment for the respondent-authorities to make necessary changes in the school and the college certificates based on the representation dated 18.01.2017 made by the petitioner. Hence, there will be a direction to the respondents to take into consideration all the certificates produced by the petitioner and make appropriate changes in all the relevant records of the petitioner based on the petitioner's representation dated 18.01.2017.

5. With the above direction, the Writ Petition is disposed of. No costs. The above said direction has to be complied with, within a period of eight weeks from the date of receipt of a copy of this order.

01.06.2017

Index : Yes/No
Internet : Yes/No
srn

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PUSHPA SATHYANARAYANA, J

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