

*Before Permod Kohli, J.*

**SHIWETA SHARMA @ ANITIKA,—Petitioner**

*versus*

**STATE OF HARYANA & OTHERS,—Respondents**

**CWP No. 6255 of 2010**

8th November, 2010

*Constitution of India, 1950—Art. 226—Registration of Births & Deaths Act, 1959—S. 15—Haryana Registration of Births and Deaths Rules, 2002—Rl. 11—Change of name after registration in Birth Register—Petitioner seeking correction of her name in register of Births and Deaths—Rejection of on ground that there is no erroneous, fraudulent or improper entry requiring correction—Whether correction can be made in register after change of original name of a child—Held, yes—No prohibition or impediment for incorporation of subsequent name adopted by child after birth—Petition allowed, order rejecting application of petitioner for correction of name quashed.*

*Held*, that there is no prohibition for change of name either under the provisions of the Act or the rules framed thereunder. To the contrary, Section 14 of the Act provides that where there is registration regarding birth of a child without any name, subsequently, the name of the child can be incorporated within prescribed time. Under Rule 10 where initially, the name of the child is not incorporated in the register, name of the child can be entered within 12 months from the date of registration of birth and under proviso to Rule 10(1), if information is not given within 12 months, it can still be given within a period of 15 years in the manner prescribed in subsequent part of this rule. Thus, the law permits incorporation of name where originally no name is incorporated. On this analogy, there should not be any prohibition or impediment for incorporation of the subsequent name which might have been adopted by the child after the birth.

*Further held*, that there is abundance of evidence on record produced by the petitioner to substantiate that her known and prevalent name is Shweta Sharma, same have been entered in the service record of her father, ration card, her Secondary School certificate and health card. There is no reason that correction be not made in the register even if it is assumed that the original name of the child at the time of birth has been changed. The interpretation sought to be placed by the respondents does not in any manner serve the ends of justice, rather defeat the same. As a matter of fact, Section 15 read with Rule 11 permit respondent No. 3 to alter the entry not only where the entry is fraudulent or improper but also where it is erroneous in form and substance, if proved to his satisfaction. Section 15 and Rule 11 thus empower respondent No. 3 to hold an enquiry if any entry is disputed as erroneous in form and substance or is sought to be corrected, including the entry regarding subsequent change of name. On correct interpretation of Section 15 and Rule 11 and keeping in view the over all Scheme of the Act and the rules, the action of the respondents is liable to be set aside.

(Para 7)

Ashok Bhardwaj, Advocate *for the petitioner*.

R. D. Sharma, DAG, Haryana *for the respondents*.

**PERMOD KOHLI, J. (ORAL)**

(1) Keeping in view the controversy involved and with the consent of learned counsel for the parties, this petition is disposed of at motion stage itself.

(2) The petitioner is daughter of Rajbir Sharma and Smt. Sunita Sharma (father and mother). She was born on 21st December, 1990 at Yamunanagar. An entry in regard to her was made in the record of Municipal Council, Yamunanagar in the register of Births and Deaths maintained by the Municipal Council on 27th December, 1990. Certificate (Annexure P-1) which is copy of Form No. 5 demonstrates that a girl child was born on 21st December, 1990 at Gaba Hospital, Yamuna Nagar

in the family of Rajbir Markanday and Sunita. The entry was duly made under registration No. 4570 on 27th December, 1990. Father of the petitioner was serving in Indian Air Force, he remained posted at various places. In the entire service record of the father of the petitioner, petitioner's name is mentioned as "Shweta Sharma" daughter of Rajbir Sharma. In the ration card which is meant for four family members issued by the Food and Supply Department, Yamuna Nagar, the name of the petitioner is shown as "Shweta Sharma". It is relevant to note that the names of four family members i.e. Petitioner, her parent and brother Ankush Sharma are mentioned in the ration card. There is no other sister of the petitioner. In the Health Card, the petitioner's name is shown as "Shweta". Petitioner passed her Secondary Examination in the year 2007 wherein also name of the petitioner is shown as "Shweta Sharma" daughter of Sunita Sharma and Rajbir Sharma (mother and father). The petitioner made an application dated 13th March, 2009 (Annexure P-7) to the District Registrar, Births and Deaths, District Yamuna Nagar (Haryana) for correction of her name in the register of Births and Deaths. Her application has been rejected, *vide* the impugned letter dated 26th August, 2009 (Annexure P-9) with the following remarks :-

"..... The case does not fall under Rule 11(1) of State Birth-Deaths Registration Rules, 2002 and Section 15 of RDB Act, 1969."

Aggrieved of the aforesaid order, the petitioner has filed this petition seeking a direction for correction of her name in the register of Births and Deaths maintained by respondent No. 3.

(3) In the written statement filed, only plea raised by respondent No. 3 is that there was no erroneous, fraudulent or improper entry in the register of Births and Deaths requiring correction under Section 15 of the Registration of Births and Deaths Act, 1969 (hereinafter referred to as "the Act") read with Rule 11 framed thereunder. Learned counsel for respondents submits that as a matter of fact, there is no provision for correction of the name of the petitioner in the Birth and Death register.

(4) I have heard learned counsel for the parties at length.

(5) Section 10 of the Act requires the information regarding births and deaths to be given to the Registrar of Births and Deaths. Section 14 provides for giving information to the Registrar of Births and Deaths. Section 14 provides for giving information to the Registrar whereby the birth entry is without name whereas Section 15 deals with correction or cancellation of entry in the register of births and deaths. Sections 14 and 15 are reproduced as under :

“14. **Registration of name of child.**—Where the birth of any child has been registered without a name, the parent or guardian of such child shall within the prescribed period give information regarding the name of the child to the Registrar either orally or in writing and there upon the Registrar shall enter such name in the register and initial and date the entry.

15. **Correction or cancellation of entry in the register of births and deaths.** - If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.”

(6) The State Government has framed rules, namely, Haryana Registration of Births and Deaths Rules, 2002, in exercise of powers under Section 30 of the Act. Rule 11 deals with the correction of entries in the register. Relevant extract of Rule 11 is reproduced as under :

“11.(1) If it is reported to Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed

by him and if the register is in his possession, the Registrar shall enquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or cancelling the entry) as provided in Section 15 and shall send an extract of the entry showing the error and how it has been corrected to the State Government or the District Registrar..

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- (4) If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 upon production by that person a declaration setting forth the nature of the error and true facts of the case made by him and supported by two credible persons having knowledge of the facts of the case.

(7) Only ground on which the request of the petitioner has not been acceded to is that there is no erroneous, fraudulent or improper entry requiring correction. It is thus contended that the request of the petitioner is beyond the scope of Section 15 of the Act and Rule 11 of the Rules framed there under. It is not in dispute that there is an entry in the register relating to birth of a female child in the family of Rajbir and Sunita on 21st December, 1990. The name of the girl child is mentioned as Anitika. It is also not disputed that no other female child was born to Rajbir and Sunita. The petitioner claims to be same girl child with a different name Shweta Sharma. Date of birth, names of the parent, place of birth and address are the same as entered in the Births and Deaths Register. Except the birth register, the name of the petitioner is Shweta Sharma in all the relevant records, for example service record of her father, her secondary school certificate, ration card and health card. This documentary proof has neither been disputed nor rebutted in any manner. It is prudent to note that in the ration card issued to the family and also the service record of her father, there are only four family members i.e. Rajbir Sharma, Sunita Sharma, his wife, Shweta Sharma, his daughter and Ankush Sharma, his son. There does not seem to be any reason to doubt the identity of the child whose date of birth is recorded as 21st December, 1990 in the Birth Register. The only

dispute is the different name entered in the Birth Register, the name which the child (petitioner) seems to have adopted thereafter. It is argued on behalf of the respondents that the entry in the birth register, if alleged to be erroneous, fraudulent or improper can only be corrected under Section 15 of the Act and Rule 11. There is no dispute that the petitioner has not sought correction on the ground that entry is fraudulent or improper. Even it is not the case of petitioner that due to any mistake, her name was mentioned as Anikita. It appears that at the time of birth of the petitioner, her name was mentioned as Anitika in the Birth Register, but subsequently, parent seems to have changed her name as "Shweta Sharma" which is not uncommon. In all subsequent records of the petitioner, she is carrying her name as Shweta Sharma. The petitioner has now asked for correction of her name in the Birth Register which may be required for any reason, like travelling abroad or for some other career promotion etc. where entry of birth is also required along with the matriculation certificates etc. Assuming that initially, the petitioner was named Anitika at the time of her birth and thereafter, her name has been changed as Shweta Sharma which has continued till date. One does not understand any reason to refuse change of name which was entered at the time of birth, if subsequently the name has been changed for any reason and continues to be so till date. There is no prohibition for change of name either under the provisions of the Act or the rules framed thereunder. To the contrary, Section 14 of the Act provides that where there is registration regarding birth of a child without any name, subsequently, the name of the child can be incorporated within prescribed time. Under Rule 10 where initially, the name of the child is not incorporated in the register, name of the child can be entered within 12 months from the date of registration of birth and under proviso to Rule 10(1), if information is not given within 12 months, it can still be given within a period of 15 years in the manner prescribed in subsequent part of this rule. Thus, the law permits incorporation of name where originally, no name is incorporated. On this analogy, there should not be any prohibition or impediment for incorporation of the subsequent name which might have been adopted by the child after the birth. Change of name in society is not a new phenomena. Section 15 of the Act provides that where it is proved to the satisfaction of the Registrar that any entry of birth or death in any register is erroneous in form or substance, or

has been fraudulently or improperly made, the same can be corrected. Similarly sub-rule (4) of Rule 11 deals with the correction of an entry which is erroneous in substance. Assuming that at the time of birth, it was a conscious entry, but in view of the change of the name of the child thereafter for which there is no prohibition, the entry has become erroneous in substance to the extent of name of the child. There is abundance of evidence on record produced by the petitioner to substantiate that her known and prevalent name is Shweta Sharma, same having been entered in the service record of her father, ration card, her Secondary School certificate and health card. There is no reason that correction be not made in the register even if it is assumed that the original name of the child at the time of birth has been changed. The interpretation sought to be placed by the respondents does not in any manner serve the ends of justice, rather defeat the same. As a matter of fact, Section 15 read with Rule 11 permit respondent No. 3 to alter the entry not only where the entry is fraudulent or improper but also where it is erroneous in form and substance, if proved to his satisfaction. Section 15 and Rule 11 thus empower respondent No. 3 to hold an enquiry if any entry is disputed as erroneous in form and substance or is sought to be corrected, including the entry regarding subsequent change of name. On correct interpretation of Section 15 and Rule 11 and keeping in view the over all Scheme of the Act and the rules, the action of the respondents is liable to be set aside.

(8) This petition is accordingly allowed and the impugned communication dated 26th August, 2009 (Annexure P-9) is hereby quashed and respondent No. 3 is directed to hold an enquiry regarding subsequent name of the petitioner and if on such enquiry if it is proved to his satisfaction that the name of the girl child, names of her parent, address, date and place of birth, names of place, entered at Sr. No. 4570, dated 27th December, 1990 is that of the petitioner and there is no other female child born to the parent of the petitioner, an endorsement be made in the margin of the Register regarding her present name without altering the original entry. Let the entire exercise be completed within two months from the date a certified copy of this order is served upon the competent authority.