

Court No. - 7

Case :- WRIT - C No. - 6676 of 2024

Petitioner :- [REDACTED]

Respondent :- State Of U.P. Thru. Prin. Secy. Technical Education Lko. And 2 Others

Counsel for Petitioner :- Anurag Narain Srivastava, Pawan Kumar Verma, Vartika Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard Sri Prashant Chaurasiya, Advocate holding brief of Sri Anurag Narain Srivastava, learned counsel for petitioner as well as learned Standing Counsel for respondents.

2. The petitioner has approached this Court seeking a direction to State-respondents to issue or modify certificate / mark-sheet of the petitioner with requisite name and gender change in the same.

3. It has been submitted by learned counsel for petitioner that petitioner was born as a girl child and the earlier name given to the petitioner was [REDACTED]. The petitioner with the name of [REDACTED] has appeared in the High School and Intermediate examination in the year 2011 and 2013 respectively with U.P. Board of Intermediate Education and was granted certificates with the name of [REDACTED]. Subsequently, the petitioner has undergone a FTM Mastectomy surgery (female to male) on 19.01.2022 and according to the petitioner the gender of the petitioner has now changed from female to male and the petitioner accordingly has changed her name from [REDACTED] to [REDACTED].

4. Owing to the gender change of the petitioner, the same was published in the gazette of Government of India 19-25 August, 2023 and the same was also got published in the leading Newspaper namely Rashtriya Sahara on 28.01.2023. On the basis of the documents the petitioner has moved an application to High School and Intermediate Education, Prayagraj and also to Board of Technical Education, Lucknow for change of name and gender of the petitioner but the same has not been changed and accordingly present writ petition has been filed seeking a direction in this regard.

5. To determine as to whether merely on account of FTM Mastectomy surgery (female to male) a person is liable to be considered as a male is an issue which has to be determined by

the State Government / Central Government and some rules or law in this regard ought to be passed. What would be the factors would determine the gender of the petitioner whether the presence of XX / XY chromosomes or any individual organ of the body which would determine the gender of an individual has to be considered and provided either by the legislature or by the Government by promulgating any enactment or rules. The courts on their parts can only direct the authorities to comply with any law in case they are not following the same or examine any order if it is in violation of any act or rules but this Court would have the power itself to determine the gender of any individual in absence of any enactment or Rules.

6. Accordingly, learned Standing Counsel is direction to inform this Court as to whether the State is contemplating passing any legislation or rules in this regard or not.

7. List this case on 18.09.2024 in top ten cases.

(Alok Mathur, J.)

Order Date :- 31.8.2024

Ravi/