

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3850 OF 2016

Kiran d/o. Devidas Gavade ..Petitioner

versus

The State of Maharashtra
and ors. ..Respondents

--
Mr.A.A.More, advocate i/b. Mr.Y.R. Barahate,
advocate for petitioner

Mr.S.B.Yawalkar, AGP for respondent nos.1 and 2 -
State

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : APRIL 05, 2016**

PER COURT :

Heard learned counsel appearing for the
petitioner and learned AGP appearing for
respondent nos.1 and 2. With their able
assistance, perused the pleadings in the petition,
annexures thereto, relevant rules and the
judgments passed by the Division Bench of this

Court which are placed on record by the petitioners.

2] This petition is filed being aggrieved by the impugned letter dated 16th February, 2016 issued by respondent no.3 to the father of the petitioner.

3] Learned counsel for the petitioner, relying upon the judgment of the Division Bench of this Court in the case of ***Shaikh Shafi Ahmed Khadarsab Vs. State of Maharashtra and ors., 2012(7) All. M.R. 437***, submits that merely because the petitioner has left the school, there was no ground for respondent no.3 to reject the application of the petitioner for making correction in the name of her father.

4] In support of the contentions of the petitioner, learned counsel has also invited our attention to another judgment of the Division

Bench of this Court in the case of **Vilas s/o. Dattatraya Ransubhe Vs. The State of Maharashtra, 2013(1) All.M.R. 89.**

5] Learned AGP appearing for respondent nos.1 and 2 - State submits that since the issue raised in this petition is covered by the judgment of the Division Bench in the case of **Shaikh Shafi Vs. State** (cited Supra), this Court may pass appropriate order.

6] As rightly contended by learned counsel for the petitioner, the point raised in this petition is clearly answered by the Division Bench of this Court in the case of **Shaikh Shafi Vs. State** (cited Supra)) in paragraphs 10 and 11 of the said judgment, which reads thus :-

"10. For all these reasons, we hold that the instructions contained in para 26.4 of the S.S. Code that an application for

change of an entry in the General Register of a school shall be entertained only on behalf of the pupil who is attending the school meaning there by that it shall not be entertained on behalf of the pupil who has left the school, are directory and not mandatory. In our view, such an application can be entertained even after the pupil has left the school, provided the application is bona fide and the pupil is able to satisfy that the original entry in the General Register of the school is erroneous. The application can be rejected if the entry is not shown to be erroneous and wrong. It, however, cannot be rejected without it being considered on merits, only on the technical ground that the application has been made after the pupil has left the school.

11. In the present case, the application has been rejected not on merits but only on the technical ground that it had been made after the petitioner had left the school and joined the junior college. In our view, the respondent No.3 Education

Officer ought to have considered the application on its own merits and ought not to have rejected it only on the technical ground that the application had been made after the petitioner had left the school. Of course, for ordering any change the respondent No.2 would have to be satisfied about the merits of the case and the bona fides of the petitioner.

7] In the light of the discussion in the foregoing paragraphs, the impugned communication issued by respondent no.3 is set aside. The matter is remanded to respondent no.3 - Headmaster for consideration of the application of the petitioner's father on its own merits.

8] We clarify that, we have not expressed any opinion as to whether, the change sought by the petitioner is *bona fide* or not. We also make it clear that, we have not examined the claim of the petitioner and not expressed any opinion as to the

controversy about the name of the father of the petitioner. It is for respondent no.2 to take appropriate decision.

9] Respondent no.3 shall forward the application filed by the petitioner's father with recommendations, to respondent 2 within two weeks from the date of receipt of the order passed by this Court. Upon receiving such application, respondent no.2 to take appropriate decision thereon, as expeditiously as possible, however, within a period of four weeks thereafter.

10] In case the decision is in favour of the petitioner, necessary correction should be done by respondent no.3 in the school record within a period of four weeks from the date of the decision by respondent no.2. The entire exercise be completed within a period of three months from today.

11] The petition is allowed and disposed of accordingly.

12] Parties to act upon an authenticated copy of this order.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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