

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8465 OF 2016

**SAROJ SURESH BHOSALE
VERSUS
EDUCATION OFFICER ZP AHMEDNAGAR AND OTHERS**

**WITH
WRIT PETITION NO. 8495 OF 2016**

**SUNIL KRUSHNARAJ PAWAR AND ANOTHER
VERSUS
EDUCATION OFFICER ZP JALGAON AND OTHERS**

**WITH
WRIT PETITION NO. 8505 OF 2016**

**SUNIL SURESH BHOSALE
VERSUS
EDUCATION OFFICER ZP AHMEDNAGAR AND OTHERS**

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Advocate for Petitioners : Shri D.B.Shinde h/f Shri Deshmukh Mahesh S..

AGP for Respondents/ State : Shri S.W.Munde and Shri P.G.Borade.

Advocate for Respondent 1 in WP/8465/2016 and 8505/2016 : Shri
S.T.Shelke.

Advocate for Respondent 2 in 8495/2016 : Shri Maheshkumar S.
Sonawane.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 09th August, 2016

Per Court:

1 In the first petition, the Petitioner prays that her caste/
religion has wrongly been mentioned in the School Leaving Certificates as
“Hindu Mahar”. It should actually be “Indian Christian” (Other Backward
Category). Reliance is placed upon the School Leaving Certificates of the
father Suresh Gopinath Bhosale, the grandfather Gopa Changu Bhosale
and the brother Rohit Suresh Bhosale, which indicate caste/ religion as
“Indian Christian”.

2 Shri Shelke, learned Advocate appears on behalf of
Respondent No.1/ Education Officer (Primary), Zilla Parishad and submits
that Respondents, by communications dated 11.09.2015, 12.10.2015,
23.11.2015, 18.04.2016 and 18.05.2016, have declined to carry out the
correction since the Petitioner has already left the school.

3 The learned AGP appearing on behalf of Respondents/ State
adopts the contentions of Shri Shelke.

4 The Petitioner has served Respondent No.3 and the service
affidavit along with acknowledgment is placed on record indicating that
Respondent No.3 was intimated about the hearing of this matter today.

5 In the second petition, the Petitioners submit that their caste/

religion in the School Leaving Certificates is mentioned as “Hindu Itar Magasvargiya Thakur”. In fact, it should be “Hindu Thakur”. Reliance is placed upon the School Leaving Certificates of the father Krushnaraj Jivraj Pawar and the grandfather Jivaraj Maruti Thakur to indicate that the religion/ caste is mentioned as “Thakur”. By the order dated 03.10.2015, Respondent No.1 has declined to carry out the corrections as the Petitioners have already left the school.

6 Shri Sonwane, learned Advocate appearing on behalf of Respondent No.2/ Education Officer (Primary), Zilla Parishad submits that since the Petitioners have left the school, Respondent No.1 has declined to carry out the correction.

7 The learned Advocate for the Petitioners submits that the learned AGP for Respondent No.1 and Shri Sonwane for Respondent No.2, are the contesting parties.

8 In the third petition, the caste/ religion of the Petitioner is mentioned as “Hindu Mahar”. Reliance is placed upon the School Leaving Certificates of the father Suresh Gopinath Bhosale, the grandfather Gopa Changu Bhosale and the brother Rohit Suresh Bhosale to indicate that the Petitioner belongs to “Indian Christian” (Other Backward Category). By

the impugned communications dated 11.09.2015, 12.10.2015, 23.11.2015, 28.04.2016 and 18.05.2016, the Respondents have declined to carry out the corrections in the school record since the Petitioner has already left the school.

9 The Petitioner has filed the service affidavit to indicate that he has served Respondent No.3 who is not a contesting party.

10 Shri Shelke, learned Advocate for Respondent No.1, submits that Respondents have issued the impugned communications as the Petitioner has already left the school.

11 The learned AGP appearing on behalf of Respondent Nos.2 and 5 adopts the submissions of Shri Shelke.

12 This Court, in identical set of facts in the matter of *Subhash Ramdas Mahale vs. Administrative Officer, Shikshan Mandal, Dhule* and another, **Writ Petition No.1184/2015**, by it's order dated 22.12.2015, has allowed the petition filed by similarly situated Petitioners by directing the competent authority i.e. Education Officer (Primary/ Secondary) to carry out the corrections after conducting proper scrutiny and strictly in accordance with it's rules. This Court has placed reliance upon the earlier

directions passed by this Court dated 06.05.2015 in **Writ Petition No.5145/2015** (*Kailas Mango Thakur vs. State of Maharashtra*) and dated 22.07.2015 in **Writ Petition No.7362/2015** (*Santosh Ratan Bagul vs. The Administrative Officer, Municipal Council*).

13 For the sake of brevity, the order passed by this Court dated 22.12.2015 in Writ Petition No.184/2015 is reproduced as under:-

- “1 *Shri Deshmukh, learned Advocate for the Petitioner, points out that Respondent No.1 by his order dated 25.09.2014 impugned in this petition, has refused to carry out correction in the caste/ tribe of the Petitioner on the ground that as the Petitioner has passed out from the said school, no such correction can be made after he has left the school. He submits that the Petitioner has been wrongly shown as belonging to “Hindu Maratha” instead of “Hindu Thakur”.*
- 2 *The learned AGP and Shri Patil oppose this petition.*
- 3 *It is not in dispute that the Petitioner has passed out from the concerned school. It is also undisputed that Respondent No.1 is competent to pass necessary orders under Clauses 26.3 and 26.4 of the Secondary School Code.*
- 4 *The Division Bench of this Court (Coram : S.S.Shinde & P.R.Bora, JJ.) has dealt with a similar issue by its order dated 06.05.2015 delivered in **Writ Petition No.5145/2015** (*Kailas Mango Thakur v/s State of Maharashtra*).*
- 5 *In another matter pertaining to Santosh Ratan Bagul v/s The Administrative Officer, Municipal Council, **Writ Petition No.7362/2015 dated 22.07.2015,***

the Division Bench of this Court (Coram : S.V.Gangapurwala & V.K.Jadhav, JJ) has held that an order passed under clause 26.4 r/w Appendix VI of the Secondary School Code is a quasi-judicial order and as such, the matter would, therefore, lie before the Single Judge Bench of this Court.

6 *The Division Bench of this Court in it's order dated 06.05.2015 in the matter of Kailas Thakur (supra) has observed in paragraphs 1 to 4 as under:-*

- “1. Heard.*
- 2. Limited grievance raised in the petition is in respect of considering the prayer of the petitioner for correction of his school record, in the light of the relevant provisions of Paragraph Nos.26.3 and 26.4 of the Secondary Schools Code. Learned Counsel submits that, the prayer of the petitioner seeking correction is erroneously rejected only on the ground that the petitioner had already left the school. In support of his contention, learned Counsel relies on the judgment of this Court in the case of Vilas Dattatraya Ransubhe Vs. State of Maharashtra and others (2013(1) Bom.C.R.666).*
- 3. The point raised in the petition is no longer - res integra. This Court in number of petitions has held that such prayer for correction in the date of birth or caste in the school record cannot be rejected only on the ground that the student has left the school.*
- 4. In that view of the matter, the impugned communication dated 10.3.2015 is quashed and set aside. Respondent nos. 2 and 3 are directed to consider the prayer of the petitioner seeking correction in the school record on its own merits, in the light of provisions of Paragraph Nos.26.3 and 26.4 of Secondary Schools Code as expeditiously as possible, preferably, within three months from today.*

Petition stands disposed of in above terms.”

7 *Shri Patil, learned Advocate for Respondent No.1, fairly submits, in the light of the order of the Division Bench dated 06.05.2015 reproduced above, that necessary orders under the Secondary School Code*

would be passed by Respondent No.1 for correcting the description of caste/tribe of the Petitioner only after due verification and by following the due procedure.

- 8 *In the light of the above, this petition is allowed. The impugned order dated 25.09.2014 passed by Respondent No.1 is quashed and set aside. Akin to the directions of this Court passed in the above referred matters and in Writ Petition No.4063/2015 (Yashwant Uttam Chavan Thakur vs. Administrative Officer, Municipal Education, Jalgaon) with connected matters dated 27.11.2015, the Respondent No.1 shall pass necessary orders expeditiously and preferably within a period of THREE MONTHS by following the procedure laid down in Rules 26.3 and 26.4 of the Secondary School Code.*
- 9 *Needless to state, the concerned Officer shall decide the case of the Petitioner on its merits. The decision arrived at shall be communicated to the Petitioner as well as Respondent No.2/ School which shall carry out correction if Respondent No.1 so directs.*
- 10 *If the Petitioner is aggrieved by any decision of Respondent No.1, he would be at liberty to raise an appropriate grievance in accordance with the remedy available in law.”*

14 In the light of the above, these Writ Petitions are partly allowed. In the first petition, the impugned communications dated 11.09.2015, 12.10.2015, 23.11.2015, 18.04.2016 and 18.05.2016 are quashed and set aside. In the second petition, the impugned order dated 03.10.2015 passed by Respondent No.1 is quashed and set aside. In the third petition, the impugned communications dated 11.09.2015,

12.10.2015, 23.11.2015, 28.04.2016 and 18.05.2016 are quashed and set aside.

15 Akin to the directions of this Court dated 22.12.2015 reproduced above, the concerned Respondents/ Competent Authorities in each of these three petitions are directed to consider the requests of the Petitioners seeking correction in the school records on their own merits and strictly in accordance with the provisions set out in paragraphs 26.3 and 26.4 of the Secondary School Code, as expeditiously as possible and preferably within a period of THREE MONTHS from today. Needless to state, the Competent Authorities shall conduct a proper enquiry and shall hear the Petitioners in the course of the enquiry, for arriving at proper decision.

16 It is made clear that this Court has not expressed any opinion about the merits of the claims put forth by the Petitioners and it is left to the Competent Authorities to decide the said claims strictly in accordance with their Rules.