

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

WRIT PETITION NO. 7200 OF 2016

Radheshyam Shrinivas Malpani
and another

.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri M. V. Ghatage, Advocate h/f Shri P. K. Lakhotiya, Advocate
for Petitioners.

Mrs. R. P. Gaur, A.G.P. for the Respondent No. 1.

Shri S. T. Shelke, Advocate for the Respondent No. 2.

Shri Milind M. Patil (Beedkar), Advocate for the Respondent No.
3.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATE : 06TH DECEMBER, 2017.

FINAL ORDER :

. Learned counsel for the petitioner seeks leave to add
petitioner No. 2. Leave to add petitioner No. 2 is granted.

2. The petitioners seek directions against the Municipal
Council to issue fresh and corrected birth certificate of the
petitioner No. 2.

3. Mr. Ghatage, the learned advocate for petitioners submits

that, the correct date of birth of the petitioner No. 2 is 07th December, 1989, however, in the register of the Municipal Council, it is wrongly recorded as 06th December, 1989. The correction was carried out in the birth certificate issued under the provisions of the Registration of Births and Deaths Act, however, no correction was made in the register. An enquiry was conducted by the District Registrar Birth and Death and he has come to the conclusion that correct date of birth of the petitioner No. 2 is 07th December, 1989. The learned advocate submits that, the name of the petitioner No. 2 was recorded as Gopal Radheshyam Malpani. The same is changed and corrected as Anand Radheshyam Malpani. Said correction also needs to be made.

4. The learned advocate for the respondent No. 3 submits that, as per the record of hospital, the date of birth of the petitioner No. 2 is recorded in the register maintained by the Municipal Council. According to the learned advocate, the said correction now would not be permissible. There is no provision to correct the same. Only clerical error can be corrected.

5. We have also heard Mr. Shelke, the learned advocate for the Respondent No. 2.

6. Sec. 15 of the Registration of Births and Deaths Act, 1969

states that, if it is proved to the satisfaction of the registrar that any entry of 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.

7. With regard to the change in the name, the Government has issued notification dated 30th June, 2015, wherein it is directed to the Chief Registrar of Births and Deaths to carry out the correction in the name by using term alias and prefer to write both names in birth certificate and in case alias is not acceptable to the applicant, then necessary changes in the name may be carried out upon satisfaction of the registrar on the authenticity of the documents furnished by the applicant.

8. The District Registrar of Births and Deaths has conducted an enquiry and opined that as per the record, the date of birth appears to be 07.12.1989. Even the doctor in whose hospital, the petitioner No. 2 was born has issued a letter stating that the petitioner No. 2 has born on 07.12.1989.

9. Considering the above, there would be no impediment for the respondent No. 3 to carry out the correction in the date of birth of the petitioner No. 2 as 07.12.1989 and issue the corrected certificate as per Sec. 15 of the Registration of Births and Deaths Act. So also carry out the correction in the name as changed in the Government Gazette dated 19th November, 2015 and as prescribed in the notification issued by the Government dated 30.06.2015. The same shall be done expeditiously and preferably within a period of one (01) month from today. The writ petition accordingly is disposed of with aforesaid observations and directions. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Dec. 17