

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

WRIT PETITION NO. 4329 OF 2016

Shakuntala d/o Govindrao Nade
@ Shakuntala w/o Suryakant Khare

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. P.B. Rakhunde, Advocate for petitioner
Mr. P.S. Patil, A.G.P. for respondent nos. 1 and 2
Mr. S.S. Tope, Advocate for respondent nos. 3 and 4

....

**CORAM : P.B. VARALE AND
R.G. AVACHAT, JJ.
DATED : 20th JUNE, 2019**

PER COURT :

Heard learned Counsel for petitioner, learned A.G.P. for Respondent Nos.1 and 2 and learned Counsel for Respondent Nos. 3 and 4. By consent of the parties, petition is taken for final disposal at admission stage.

2. Petitioner entered into government service i.e. in Industrial Training Institute, Aurangabad as peon on a reserved post. Vide communication dated 27th January, 2014, petitioner was directed to seek validation of his caste through the competent scrutiny committee. It is the submission of learned Counsel for petitioner that petitioner is a member of

scheduled caste category and though petitioner was *Mang*, the social status shown in the school leaving certificate of petitioner is *Mahar*. Learned Counsel for petitioner submitted that petitioner had immediately approached Education Officer i.e. Respondent No.3 – Deputy Commissioner with his request to correct the school leaving certificate alongwith the proposal. Petitioner submitted the copies of caste certificate issued in favour of near relatives of petitioner. It is the submission of learned Counsel that there was sufficient material supporting the claim of petitioner. Learned Counsel for petitioner then submitted that Respondent No.3 raised a ground that petitioner had left the school and subsequently an application is submitted for effecting the change in school leaving certificate. As such, the request of petitioner was turned down.

3. Learned Counsel for petitioner placed reliance on the judgment of this Court to submit that the order passed by Respondent No.3 – Education Officer is unsustainable. Division Bench of this Court while dealing with similar issue in *Swapneel Maroti Sonwale Vs. State of Maharashtra and Others* and *Vilas Dattatraya Ransubhe Vs. State of Maharashtra and Others* observed that the issue with regard to correction with reference to caste in school leaving certificate is no longer res integra. In paragraph no.6 of the judgment of *Vilas Dattatraya Ransubhe Vs. State of Maharashtra and Others* dated 08th October, 2012, Division Bench of this Court has observed thus :-

“6. On fulfillment of requirements laid down under Appendix Six, the application tendered for effecting change in the entries recorded in school record can be entertained. Respondents were therefore not justified in turning down the application tendered by the petitioner on the ground that the entries recorded in the school record cannot be corrected after pupil has left school. The petitioner, therefore, deserves to be allowed and Education Officer (Primary), Zilla Parishad, Osmanabad is required to be directed to consider the application tendered by the petitioner to the school authorities and which has been forwarded to the Education Officer (Primary), Zilla Parishad, Osmanabad, in accordance with provisions of Secondary School Code, 2006. The orders passed by respondent Nos. 2 and 3 impugned in this petition, are quashed and set aside and the matter is remitted back to the Education Officer (Primary), Zilla Parishad, Osmanabad for reconsideration. The Education Officer (Primary), Zilla Parishad, Osmanabad shall proceed to take decision on the application in accordance with provisions of Secondary Schools Code, 2006 and the observations made in this judgment. The petitioner shall cause appearance before the Education Officer (Primary), Zilla Parishad, Osmanabad on 29th October, 2012 and as such, no separate notice requiring petitioner's appearance before respondent No.3 shall be essential. Respondent No.3 shall decide the application, as expeditiously as possible, preferably within eight (8) weeks from date of appearance of petitioner before him. Rule is accordingly made absolute. No order as to costs.”

Similar view is adopted in the judgment and order dated 12th January, 2016 in the matter of *Sanket Janardhan Paighan Vs. State of*

Maharashtra and Others.

4. It may be useful for our purpose to refer to provision viz. 26.4 and the note of said provision which reads thus :-

“26.4 Application for change or correction of date of birth, name, surname, case etc. as entered in the General Register shall be entertained from or on behalf of a pupil who is attending a school. Such application shall not be entertained from or on behalf of a pupil, who has left the school, as the same amounts not only to a change in the entries in the General Register but also to a change in the School Leaving Certificate. However, for the purposes like an admission to another educational institution the School Leaving Certificate is relied upon as an evidence for name, surname, caste, date of birth etc., and hence in bonafied cases where wrong spelling of a word or an obvious mistake of the eye mentioned in sub-rule 3 above is noticed any time after issue of the School Leaving Certificate and the same is required to be corrected so as to be consistent with the corresponding entries in the General Register of the school or those in the School Leaving Certificate issued by the previous school, such applications shall be entertained. The procedure to be followed in such cases is laid down in Appendix Six.

Note : In cases of pupils who have left the school, or receipt of sanction of the appropriate authority, the corrections shall not be carried out in the body of the School Leaving Certificate; but the same shall be mentioned by endorsing the certificate on the reverse side and mentioning the number and date of the order of the appropriate authority. Such an endorsement shall be signed and

dated by the Head of the Entire rule 26.1 to 26.4 substituted by new rules 26.1 to 26.4 by (G.R. No. GAC-1083/89/SE-2 Dt. 16/3/1983).”

5. Thus, it is clear that Secondary School Code is not providing any absolute bar for entertaining the application seeking change in school leaving certificate and it only gives an option that on receipt of sanction of the appropriate authority, the correction shall not be carried out in the body of school leaving certificate, but the same be mentioned with an endorsement on the reverse side. The order of Education Officer was subjected to challenge before the Deputy Director of Education in an appeal preferred by petitioner. The Deputy Director of Education maintained the order of Education Officer.

6. Considering the judgment of this Court, as well the provision of Secondary School Code, 2006, we are of the opinion that learned Counsel for petitioner made out the case. Writ petition, thus allowed in terms of prayer clauses (B) and (C). The matter is remitted back to Respondent No.3 – Education Officer/Deputy Commissioner, Municipal Corporation, Aurangabad for reconsideration. Education Officer shall proceed to take decision of application in accordance with provisions of Secondary School Code, 2006 and the observations of Division Bench in the judgment of *Vilas Dattatraya Ransubhe*.

7. Petitioner undertakes to cause his appearance before Respondent No.3 – Education Officer/Deputy Commissioner on 25th June, 2019. As such, no separate notice is required to issue to petitioner. Respondent No.3, on appearance of petitioner on the scheduled date, to decide the application as expeditiously as possible and preferably within eight weeks from the date of appearance of petitioner before him, needless to state on the merits of the application.

(R.G. AVACHAT, J.)

(P.B. VARALE, J.)

SSD