

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

928 WRIT PETITION NO.1621 OF 2018

Yashwant Hari Daulkar
Age: 49 years, Occu.: Service,
R/o. 13, A Police Colony,
Vedel Road, Deopur,
Dhule, Tq. & Dist.Dhule. ..Petitioner

VERUS

1. Education Officer (Primary),
Zilla Parishad, Dhule,
Dist.Dhule.
2. Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar
Division, Nandurbar. ..Respondents

...
Advocate for Petitioner : Shri Mahesh S. Deshmukh
AGP for Respondent – State : Shri Ajay B.Chate
Advocate for Respondent No.1 : Shri Rahul S. Pawar
...

CORAM : P.R.BORA, J.
DATE: 4th June, 2019

ORAL JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of learned Counsel for the parties, the petition is taken up for final disposal at admission stage.

2. Aggrieved by the order dated 17.02.2017, passed by respondent No.1, the petitioner has preferred the present

petition.

3. The present petitioner claims to be belonging to 'Thakur' caste which is notified as Scheduled Tribe. Petitioner has taken his primary education in School at Dhule by name Adarsh Primary Vidya Mandir, Deopur, Dhule. The record maintained in the said School in respect of the petitioner carries information as about the caste of the present petitioner as 'Hindu Thakur (इ.मा.)'. It is the contention of the petitioner that the mentioning of E.Ma. (इ.मा.) in bracket against the caste of the present petitioner is the mistake occurred at the relevant time either by the father of the present petitioner or by the School authority. The learned Counsel appearing for the petitioner submitted that there is ample evidence available showing that the petitioner belongs to 'Thakur' caste, which is notified as Scheduled Tribe. The learned Counsel further submitted that real brother of the present petitioner has obtained the caste validity certificate from the Caste Scrutiny Committee certifying his caste to be 'Hindu Thakur' i.e. Scheduled Tribe. In the circumstances, an application was made by the petitioner to the Education Officer (Primary), Zilla Parishad, Dhule, seeking direction to the Head Master of the School to carry out necessary correction as was prayed by the petitioner in respect of his caste. A request was made by the

petitioner for deleting the bracketed portion E.Ma. (इ.मा.) since that was erroneously incorporated against his caste. Vide the impugned order, the Education Officer (Primary), Zilla Parishad, Dhule has rejected the application of the present petitioner on the only ground that the petitioner is not presently taking education in the said School and as such the correction as was sought by the petitioner cannot be made by the Education Officer.

4. Shri Mahesh S. Deshmukh, learned Counsel appearing for the petitioner, relying upon the Judgment of the Division Bench of this Court in the case of **Vilas Dattatraya Ransubhe Vs. State of Maharashtra and others [2013 (1) Bom.C.R. 666]**, submitted that the similar issue was for consideration before the Division Bench as to whether application for correction in the School record can be rejected only on the ground that the said applicant has left the said School. The learned Counsel submitted that in view of the law laid down by the Division Bench, the impugned order cannot be sustained and deserves to be set aside. The learned Counsel, in the circumstances, prayed for allowing the writ petition and consequently to issue direction to respondent No.1 for permitting the School to carry out the necessary correction in the School record of the present petitioner and to furnish corrected copy of

the School Leaving Certificate to the petitioner.

5. The learned Counsel appearing for respondent No.1 and learned AGP appearing for respondent No.2 both have submitted for passing appropriate orders in view of the Judgment delivered by the Division Bench of this Court.

6. I have given due consideration to the submissions made by the learned Counsel appearing for the petitioner. I have perused the impugned order and the documents filed on record by the petitioner. In so far as the factual aspects as about the School in which the petitioner has taken his primary education as well as record in the said School, are not in dispute. The petitioner has also placed on record the caste validity certificate of brother of the petitioner namely Dhansing Hari Mahale. The petitioner has also placed on record caste validity certificate of the nephew of the petitioner namely Chandrashekhar Dhansing Thakur. As has been submitted by the petitioner, both these caste validity certificates were placed on record before the Education Officer in support of his claim that he belongs to 'Hindu Thakur' community, which is notified as Scheduled Tribe and not in E.Ma. (इ.मा.). The Division Bench of this Court in the case of **Vilas Dattatraya Ransubhe** (supra) has referred to certain observations

made in an earlier Judgment delivered by this Court in the case of ***Shaikh Shafi Ahmed Khadarsab Vs. The State of Maharashtra and others in Writ Petition No.1138 of 2009***, which I deem it appropriate to reproduce herein below:-

"11. 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 thereby 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."

7. My attention was also invited by learned Counsel for the petitioner to paragraph No.6 of the aforesaid Judgment which reads 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

petition, 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 Schools 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.

8. In view of the law laid down by the Division Bench of this Court, there may not be any doubt that the Education Officer is the authority to consider the application in respect of change in the School record even after the said person has left the concerned School. In view of the law laid down by the Division Bench of this Court, the impugned order appears to be unsustainable and the petition filed by the present petitioner deserves to be allowed. Hence, the following order is passed:-

ORDER

I) Respondent No.1 - Education Officer (Primary), Zilla Parishad, Dhule, shall take decision on the application submitted by the present petitioner in accordance with the provisions of Secondary Schools Code 2006, and the observations made in this Judgment as well as in the Judgment delivered by the Division Bench of this Court in case of **Vilas Dattatraya Ransubhe** (supra).

II) The petitioner shall cause appearance before the Education Officer (Primary), Zilla Parishad, Dhule, on 17.06.2019, and as such, no separate notice requiring petitioner's appearance before respondent No.1, shall be essential.

III) Respondent No.1 shall decide the application, as expeditiously as possible, preferably within six months from the date of appearance of the petitioner before him.

IV) Rule is accordingly made absolute.

V) No order as to costs.

(P.R.BORA)
JUDGE