

(1)

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

WRIT PETITION NO.1050 OF 2019

Apeksha d/o Prabhakar Pagare,
@ Apeksha Anand Pawar,
Age: 18 years, Occ. : Student,
R/o. Plot No.3, Airport Road,
Near Hanuman Mandir,
Jalna Road, Chikalthana,
Aurangabad, Dist. Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra,
Department of School Education
& Sports, Mantralaya,
Mumbai-32,
through its Secretary
2. The Education Officer (Secondary),
Zilla Parishad, Aurangabad
3. The Head Master,
St. Xavier's High School,
N-1, CIDCO, Aurangabad

..RESPONDENTS

Mr V. U. Jadhav, Advocate for petitioner;
Mrs M. A. Deshpande, A.G.P. for respondent Nos.1 & 2

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 24th January, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

(2)

2. The petitioner is a student of 12th Class. An application was submitted to respondent No.3 – Headmaster, St. Xaviers High School, Aurangabad for effecting change in the school record of the petitioner. A copy of the said application is placed on record. In the very first clause of the said application, it is stated that name of the applicant (Guardian) is Pagare Prabhakar. The petitioner submitted an application seeking change in the name of the father by way of an application under format No.2. Along with an affidavit, claim is submitted for change in the school record in respect of surname, name of the father and caste of the petitioner. Along with the recommendations, the application was forwarded to the Education Officer (Secondary). On 24th July, 2018, the Education Officer (Secondary), by pointing out certain deficiencies, remitted the proposal back to the Headmaster i.e. respondent No.4. The deficiencies are in respect of not submitting certain documents.

3. It seems that on 4th October, 2018, respondent No.3 – Headmaster forwarded the necessary information along with affidavit, death certificate, birth certificate, a copy of gazette notification, copy of an order passed by the District Court, Aurangabad and a copy of order of the Family Court, etc. Learned Counsel submitted that in spite of submitting necessary documents, the Education Officer (Secondary), again vide communication dated 3rd December, 2018, remitted the proposal back to the Headmaster, pointing out some other deficiencies, more particularly a certificate to show that

(3)

Headmaster has not issued transfer certificate, the Court order/adoption deed and also explanation was sought for as to whether the petitioner/student is prosecuting her studies in the school or not. The documents placed on record show that in the birth certificate issued by Aurangabad Municipal Corporation, the name of the petitioner is recorded as Apeksha and in the column of name of the father/mother, it is stated as Vimal Prabhakar Pagare.

4. It seems that Mr Prabhakar Pagare expired due to illness on 31st October, 2001 and mother of the petitioner Smt. Sonal Pawar married to Mr Anant Pawar on 8th March, 2004. Smt. Sonal and Anant approached the Family Court seeking divorce by mutual consent. In view of dissolution of the marriage between Sonal and Anant, an application was filed. There is also a copy of Government Gazette notification placed on record, whereby the name of petitioner Apeksha Anant Pawar was changed to Apeksha Prabhakar Pagare. It seems that in view of these peculiar sequence of the facts, the petitioner approached the authority for change in the school record.

5. Learned Counsel for the petitioner, by inviting our attention to the order of the Division Bench of this Court, dated 8th October, 2012, passed in Writ Petition No.3266 of 2012 (Vilas Dattatraya Ransubhe Vs. The State of Maharashtra & ors.), submitted that the Education Officer again go on remitting matter back to the Head Master without any decision. The

(4)

relevant provisions, namely, Rule 26.4 of the Secondary Schools Code, 2006 are referred to in the order of the Division Bench. The application was turned down only on the ground that when the application was submitted, at that point of time, the petitioner was not prosecuting his studies. Learned Counsel for the petitioner further submitted that the order of the Division Bench, dated 8th October, 2012 would apply to the case of the present petitioner with more force, as the petitioner is prosecuting the studies and is desirous of seeking admission to professional courses after 12th standard examination.

6. Learned Asstt. Govt. Pleader appearing for respondent Nos.1 and 2 submitted that as the petitioner seeks a change in the name of the father by restoring the position prior to the second marriage, probably the Education Officer was under an impression that he is unable to exercise the powers to issue certificate.

7. Considering the aforesaid facts, we are of the opinion that the petition can be disposed of by issuing directions and accordingly we direct respondent No.2 - Education Officer (Secondary), Zilla Parishad, Aurangabad to decide the application submitted to him through respondent No.3 - Headmaster (Proposal dated 3rd July, 2018), as expeditiously as possible and preferably not later than eight weeks from the date of the order of this court, needless to state that on merits of the application and the

(5)

Education Officer assigns the reasons briefly, in case the application is rejected by him.

With these directions/observations, the petition is disposed.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

sjk