

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

31 WRIT PETITION NO.14384 OF 2017

WALMIK LAXMAN ROKADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Mane Dhananjay A.
AGP for Respondent Nos. 1 to 3-State : Mr. A. B. Chate
Advocate for Respondent No.5 : Mr. U. B. Bondar
Advocate for Respondent No.6 : Mr. G. J. Pahilwan

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CORAM : V. K. JADHAV, J.
DATED : 13th JANUARY, 2020

PER COURT:-

1. Heard finally with consent at admission stage.
2. This pertains to the disqualification incurred by respondent no.6 for having a third child after the cut-off date i.e. 12.09.2001. The petitioner is the original complainant. Both the authorities below have decided the matter in favour of respondent no.6.
3. Learned counsel for the petitioner submits that the entry in the school admission register pertaining to the third child of respondent no.6 reveals that the third child of respondent no. 6 is born on 26.02.2002 and respondent no. 6, on his own, on

15.06.2012 filed an application before the Head Master, Zilla Parishad Primary School, Sasegaonwadi to correct the date of birth of his third child as 26.11.2001 in stead of 26.02.2002. Learned counsel submits that respondent no.6 has never referred the date of birth of his third child as 25.04.2001 and the birth certificate exhibit "F" (page 33 of the petition) which has been placed before the authorities below is false and fabricated document. Learned counsel submits that however, both the authorities below have not considered this material aspect and only given weightage to the birth certificate issued by the Gram Sevak wherein the date of birth of the third child of respondent no.6 is mentioned as 25.04.2001. Learned counsel submits that respondent no.6 has incurred disqualification on account of the birth of his third child after the cut-off date. Learned counsel for the petitioner submits that as per Section 13 of the Registration of Births and Deaths Act, 1969, if the intimation about birth of the child is not given within 30 days, only after taking permission from the authorities as mentioned in the said provision, the belated information about birth of the child can be recorded. Learned counsel submits that even assuming that the birth certificate, wherein the date of birth of the third child of respondent no.6 has been recorded as 25.04.2001, it further

appears that the said information about birth of the child was given on 15.06.2001, that is, exceeding the period of 30 days and as such, it was incumbent upon the Gram Sevak to record the said date of birth only after the respondent no.6 obtains permission from the higher authorities. Learned counsel submits that the petition deserves to be allowed.

4. Learned counsel for respondent no.6 submits that though at a later stage respondent no.6 has filed an application before the school authorities for correction of the date of birth of his third child as mentioned in the record, however, there is an entry in the birth register maintained by the Gram Sevak of the concerned village which indicates that the birth of the third child of respondent no.6 is prior to the cut-off date. Learned counsel submits that both the authorities below have given weightage to the said aspect correctly. There is no substance in this Writ Petition and the Writ Petition is liable to be dismissed.

5. Learned counsel Mr. U. B. Bondar appearing for respondent no.5 Gram Sevak submits that in the birth and death register, the entry pertaining to the birth of the third child of respondent no.6

has been duly taken wherein the date of birth is mentioned as 25.04.2001. The said entry is in continuation of other entries and this is not an isolated entry. There is no substance in the Writ Petition. It is thus liable to be dismissed.

6. I have also heard learned AGP for the respondent State.

7. On careful perusal of the impugned orders and on going through the annexures, particularly, the birth certificate issued by the Gram Sevak of the concerned village compared with the original register placed before me by learned counsel appearing for respondent no.5, it appears that the said entry pertaining to the date of birth of the third child of respondent no.6 is not an isolated entry and the same is in continuation of the other entries. Even prior to the said entry, there are other entries about birth of children in the said village. Even after the said entry, there are entries recorded in continuation of birth of children in the village. It appears that both the authorities below have thus given weightage to the said entry recorded by the Gram Sevak in terms of the provisions of the Registration of Births and Deaths Act, 1969. So far as the contention about that entry being taken on belated

information, however, in the present matter, the validity of such an entry is not the issue and the petitioner would be at liberty to initiate appropriate proceedings for the same. I do not find any fault in the orders passed by the authorities below. In view of the same, I proceed to pass the following order:

ORDER

The Writ Petition is hereby dismissed and disposed off accordingly.

(V. K. JADHAV, J.)

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