

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3019 OF 2020

Rakesh S/o Ramlal Gujar,
Age : 21 years, Occu. Education,
R/o Talner, Post. Ghatshendra,
Tq. Kannad, District Aurangabad.

... Petitioner

VERSUS

1. The State of Maharashtra,
Education Department,
Mantralaya, Mumbai-32.
2. The Divisional Secretary,
Maharashtra State Board of Secondary
and Higher Secondary Education,
Pune Division, Pune.
3. The Principal,
Shiveshwar Madhyamik and Uchcha
Madhyamik Vidhyalaya, Takali (A)
Tq. Kannad, District. Aurangabad.
4. The Education Officer (Madhyamik)
Zilla Parishad, Aurangabad,
District Aurangabad.

... Respondents

Mr Jayabhar D.R., Advocate for petitioner
Mr S.R.Yadav-Lonikar, AGP for respondent No.1 & 4
Mr U. S. Mote, Advocate for respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
S.G. MEHARE, JJ**

DATE : 13th July, 2021

ORAL ORDER (Per Ravindra V. Ghuge,. J.)

1. By this petition, the petitioner has put forth prayer clauses 'C' and 'D' as
under :

“C) The respondent no.2 may kindly be directed to correct the name of petitioner as Gujar Rakesh Ramlal instead of Koli Rakesh Ramlal on his S.S.C.-certificate bearing Seat No.K0-33747 for March-2014 examination.

D) The respondent No.2 may kindly be directed to correct his surname as Gujar instead of Koli on his S.S.C. certificate held in March 2014.”

2. We have considered the strenuous submissions of the learned Advocate for the petitioner, the learned AGP on behalf of respondent Nos.1 and 4 and the learned Advocate on behalf of respondent No.2. Notice was issued on 20.02.2020. Respondent No.3 is the School in which the petitioner has taken his education from the 1st standard till the 10th standard. It is a formal party.

3. The only issue before this Court is whether the petitioner’s surname ‘Koli’, (wrongly mentioned as ‘Gujar’ in this petition since the correction of the surname is yet to be allowed), could be corrected as ‘Gujar’, in the light of the decision of the Learned Full Bench of this Court, dated 17.10.2019, delivered in Writ Petition No.8085 of 2017 filed by Janabai D/o Himmatrao Thakur Vs. The State of Maharashtra and others, at Aurangabad, 2019 (6) Mh.L.J. 769.

4. The learned Full Bench was dealing with the following questions referred to it by the learned Division Bench :-

“(A) Whether an application seeking alteration, change or correction in the name, surname, date of birth, caste, or other entries entered in the General Register, including correction in spelling of name, surname, date of birth, caste, as recorded in the General Register, shall be entertained by or on behalf of the pupil who has left the school and the change in the aforesaid entries, is necessitated for the purposes like securing an admission to

another educational institution and the School Leaving Certificate is relied upon as an evidence for name, surname, caste, date of birth, etc. (B) Whether the view adopted by the Division Bench in the matters of (i) Swapneel s/o Maroti Sonwale Vs. State of Maharashtra & others, reported in 2013 (6) Mh.L.J. 400; (ii) in the matter of Vilas s/o Dattatraya Ransubhe Vs. State of Maharashtra & others, reported in 2013(1) Mh.L.J. 851; and (iii) Arshad Khalid Jamal Vs. State of Maharashtra & others, reported in 2012(4) Mh.L.J. 646, deserves to be upheld or whether the view adopted by the Division Bench at Nagpur in Special Civil Application No.1048 of 1971, decided on 5th April, 1973 (Captain Anil Vasantrao Bhat & another Vs. Divisional Secretary, Maharashtra State Board of Secondary Education, Nagpur Divisional Board, Nagpur & another), is a correct view. (C) Whether the change, sought to be requested by the petitioner, is required to be consistent with Clauses 26.3 and 26.4 read with Appendix Six of the Secondary Schools Code, meaning thereby, bonafide cases where wrong spelling of a word or an obvious mistake of the type mentioned in Clause 26.3, can only be directed to be corrected.”

5. In paragraph 39, the learned Full Bench answered the above mentioned questions as under :

“(a) An application for alteration in the entries in the General Register is permissible, with the previous permission of the appropriate authority at any time when the pupil is attending the school. (b) No application for alteration in the figure of date of birth is permissible, after the student has left secondary school, except correction in the nature of 'obvious mistakes' as indicated in Clause 26.3 i.e. of a nature where the date of a particular month which does not exist in the calendar and likewise. (c) Thus, in light of the above, an application for change in the name, surname or caste, either due to reasons / cause unnoticed before or even occurring subsequently, being errors which fall within the category of 'obvious mistakes', can be made, even after the student has left school in light of the language of Clause 26.3 in the manner as indicated by Appendix Six in the forms as prescribed in the S.S. Code. (d) For the purposes like admission to another educational institution, in cases of obvious mistakes as prescribed in Clause 26.4, a change/ correction in the school leaving certificate, so as to make the entry consistent with the corresponding

entries in the General Register of the School is permissible, which in fact is in consonance with (c) above."

6. Since the case of the petitioner is of seeking a correction in his surname, answer (c) under paragraph 39 reproduced above, would be relevant as the said answer deals with the case of correction / change in the name, surname or caste, either due to reasons / cause which had gone unnoticed before or which may have occurred subsequently and which can be termed as being errors falling within the category of "obvious mistakes".

7. The learned Advocate for the petitioner has strenuously contended that his father Ramlal Gujar passed away when he was four years old. He was admitted in Zilla Parishad Primary Shala, Ghatshendra on 01.07.2009 in the 7th standard. His date of birth is 04.12.1998. His name is shown as 'Koli Rakesh Ramlal'. His father's name is shown as Ramlal Dashrath Koli and his mother's name is shown as Sau. Anita Koli. The caste is shown as 'Hindu-Gujar'. He left the school on 15.06.2011.

8. The petitioner contends that his father had taken education in Swami Muktanand Vidyalaya, Yeola and his name was entered as 'Gujar Ramlal Dashrath'. The caste was shown as 'Hindu-Gujar'. He left the school on 24.12.1979. He was removed from the school since he was consistently absent, when he was in the 10th standard. The petitioner has recently obtained a birth certificate dated 04.09.2018 from the Grampanchayat, Talner indicating his name as 'Rakesh Ramlal Gujar'. The petitioner has obtained the Income Tax Department PAN Card bearing his name as 'Gujar Rakesh

Ramlal'. Similar is the entry in his Aadhar Card. His mother's name in the Aadhar Card reflects as 'Anita Ramlal Gujar'.

9. We find that the entire case of the petitioner rests on the foundation that his surname was erroneously entered in the school record as 'Koli'. The entry should have been 'Gujar'. This according to him, is an 'obvious mistake' committed by the school and, therefore, the learned Full Bench of this Court would permit such correction of surname in the light of Rule 26(3) of the Secondary School Code.

10. Rules 26(3) and 26(4) read as under :

"26.3 No alteration in the date of birth or other entries in the General Register, including correction of spelling shall be allowed without the previous permission of the appropriate authority. No such alteration in the figure of Date of Birth shall, however, be allowed even with such permission after the students has left secondary school. This shall not however preclude corrections of obvious mistakes, that is the date of a particular month which does not exist in the calendar. Before giving sanction to correct spelling or the obvious mistake in figures, the same shall be verified with the original evidence, if any, produced at the time of making the relevant entry. When such an alteration is made on the strength of the written order of the said authority an entry to that effect shall be made in the remarks column of the General Register by writing the number and date of the order of the said authority. The written order shall be preserved as permanent record.

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

purpose like an admission to another educational institution in 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 type 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 application shall be entertained. The procedure to be followed in such cases is laid down in Appendix Six."

11. In our view, the learned Full Bench has delivered their answers to the three issues referred to them by the learned Division Bench, in the said judgment dated 17.10.2019. The answer found in clause 39 (c) re-produced above leaves no room for debate that the surname of the petitioner can be corrected only if the reason / cause of writing his surname as 'Koli' is that the petitioner never noticed such mistake. We, therefore, are testing the case of the petitioner in the light of the decision rendered by the learned Full Bench as to whether an entry of his surname 'Koli', instead of the purported surname 'Gujar', could be due to the reason of such mistake going unnoticed.

12. The petitioner has candidly stated that his name Rakesh Koli was used in the school ever since he entered the first standard till the 10th standard, for all purposes, viz. marking his attendance in the classroom, his name being entered in the classroom register, he appearing for all classroom examinations and also his S.S.C. and H.S.C. examinations.

13. It cannot be ignored that a student has to fill up the examination form for the 10th standard. Apparently, the petitioner has himself recorded his name

as 'Rakesh Ramlal Koli'. Based on such entry, he received his S.S.C. examination admit card. He received his S.S.C. result and certificate of the 10th standard with the same name. Thereafter, he filled in his form for joining the Junior College for his 11th and 12th standard examinations. He himself has entered the name as 'Rakesh Ramlal Koli' since his mother is illiterate and cannot read or write. His H.S.C. marks memo and the passing certificate also are in the same name 'Rakesh Ramlal Koli'. Presently, the petitioner is 23 years old and has not made any statement in the memo of the petition as to whether he is pursuing his further education. However, it is submitted that he is pursuing graduation and he pursued his entire education by the name 'Rakesh Ramlal Koli'.

14. In the light of the above facts, the case of the petitioner fails the test set out in clause 39 (c) by the learned Full Bench which is applicable to cases wherein correction / change in the name or surname or caste is to be permitted, on the following grounds :-

- (a) For ten years of his education in school, the petitioner has answered his roll call by the name 'Rakesh Koli',
- (b) has appeared in all his class examinations by the same name,
- (c) he has himself filled in his S.S.C. examination form by the same name,
- (d) He got himself admitted for the 11th and 12th standards (Junior College) again with the same name and
- (e) he is now pursuing graduation degree course in the same name.

15. This, therefore, rules out the argument that all these 15 years of his education, he never noticed that he was writing his name as 'Rakesh Koli' and

that it should have been 'Rakesh Gujar'. When we called upon the petitioner to answer as to why does he want a change in his surname today, his answer was that, some of his relatives have acquired validity certificates for the reserved category 'Gujar'. He, therefore, wants the name to be corrected so as to sound as 'Rakesh Ramlal Gujar' which will enable him to obtain a similar validity certificate.

CONDUCT OF THE PETITIONER

16. We also find that the conduct of the petitioner cannot be countenanced. He somehow managed the correction in the original school entry record by putting his surname 'Koli' into brackets and by writing a fresh surname as 'Gujar', on 04.02.2020. He also could manage a fresh school entry certificate on 03.02.2020 showing his surname as 'Gujar' and also by altering the surname of his father and mother. Having obtained such record on 03.02.2020 and 04.02.2020, he filed this petition on 13.02.2020. So also, the petitioner had acquired a fresh birth certificate on 04.09.2018 from the Sarpanch of the village showing his name as 'Rakesh Ramlal Gujar'. We do find an element of fraudulent behaviour on the part of the petitioner so as to be covered by the judgment of the Hon'ble Apex Court in ***Kishore Samrite Vs. State of U.P., (2013) 2 SCC 398.***

17. Considering the above, we find that the case of the petitioner fails the test in the light of the principle laid down by the learned Full Bench in clause (c) under paragraph 39 reproduced above.

18. This petition, being devoid of merit is, therefore, dismissed. Since the petitioner is a college going student, we are not imposing costs.

[S.G. MEHARE, J.]

[RAVINDRA V. GHUGE, J.]

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