

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4100 OF 2020

1. Sheikh Monis Sheikh Maksud,
2. Sheikh Hajra Sheikh Maksud ..PETITIONERS

VERSUS

The State of Maharashtra & ors. ..RESPONDENTS

Mr K.J. Suryawanshi, Advocate holding for Mr A.R. Tapse, Advocate for petitioners;
Mr S.K. Tambe, AGP for respondent Nos.1 to 3

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

DATE : 28th July, 2021

P.C.

1. Both the petitioners are siblings. By this petition, they have putforth prayer clause (B), which reads as under:-

“By issuing writ of mandamus or the directions, orders, directions in the like nature, the request application dated 25.02.2020 and 03.03.2020 submitted by the petitioners in regard to correction of caste in the transfer Certificate as Muslim instead of ‘Muslim Beldar’.”

2. It is conceded that both the petitioners have left school about eight years ago. The school record of both the petitioners indicates their caste as “Muslim Beldar”. Their father had not got admitted in school and had not

taken education. Consequentially, he does not have a caste certificate. It is, however, pointed out that both the petitioners do not seek any such change in their caste which would indicate that they belong to any backward category. They claim to be Muslims and, therefore, they belong to the open category. With this contention, they pray that their applications for seeking correction in their caste from "Muslim Beldar" to simple "Muslim", may be considered by the Education Officer and an appropriate order can be passed.

3. The learned Full Bench of this Court has delivered a judgment on 17.10.2019 in Writ Petition No.8085 of 2017, filed at Aurangabad by **Janabai Himmatrao Thakur vs. State of Maharashtra & ors.**, reported in **2019 (6) Mh.L.J. 769**. Three issues were framed by the learned Division Bench vide its order dated 30.06.2017, which are reproduced in paragraph 1 of the judgment of the Full Bench, which read thus:-

"(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.”

4. The learned Full Bench has answered the above stated three issues in paragraph 39, which reads 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."

5. The answer to the petition lies in clause (c) below paragraph 39 which enables the change in caste either due to reasons or a cause that had gone un-noticed or that an event had occurred subsequently or the error falls in the category of "obvious mistakes" which were noticed only after the student left the school, in the light of the language of clause 26 (3) as indicated by Appendix Six in the Secondary Schools Code.

6. The petitioners are 26 and 27 years of age, respectively and have not stated in the petition as to whether they are pursuing education after passing out from school. Nevertheless, it is obvious that the case of the petitioners would not be covered by the answer 39 (c) that we find in the judgment of the learned Full Bench. So also, if the petitioners want to pose in the society that they belong to the open category and they do not belong to any reserved category, it can only be their choice. They have the freedom to do so and this Court will not approve any stand being taken by the petitioners since we are not entertaining the petition to the extent of the prayers putforth by them.

7. In view of the above, this petition is dismissed. No order as to costs.

[S.G. MEHARE, J.]

[RAVINDRA V. GHUGE, J.]

amj