

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

907 WRIT PETITION NO.6660 OF 2020

Syed Arbaz Syed Akhtar,
Age 17 yrs, Occ. Student,
Through his under guardian (Father)
Syed Akhtar Syed Mohammad,
Age 46 yrs, Occ. Business,
r/o Plot No.76, Shaukat Villa
Aurangabad Times Colony,
Katkot Gate, Aurangabad.

...Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
to the Govt. School Education
and Sport Department,
Mantralaya Mumbai-32.
2. The Maharashtra State Board of
Secondary and Higher Secondary
Education, Aurangabad Region.
3. Education Officer (Secondary)
Zilla Parishad Aurangabad.
4. The Head Master,
Little Flower High School,
Cantonment, Aurangabad.
5. The Head Master,
St. Lawrence Primary School,
Plot No.R-7/1, Town Centre,
CIDCO, Aurangabad.

...Respondents

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Ms. Vaishali A. Shinde (More), Advocate for the Petitioner.

Mr. S.R. Yadav, AGP for Respondent Nos.1 & 3.

Ms. S.P. Mahajan a/w Ms. Sayali S. Kulkarni, Advocate for
Respondent No.2.

Mr. V.S. Kadam, Advocate for Respondent No.4.

Mr. R.N. Chavan h/f Mr. V.A. Bagdiya, Advocate for Respondent No.5.

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**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, J.J.**

DATED : 01st OCTOBER, 2021

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. On 07.09.2020, when this matter was heard by the earlier bench, the following observation was made in paragraph nos.1 and 2:

“1. The petitioner has got his name changed in the *Government Gazette* in the year 2019. Now, the petitioner wants to record his changed name in the SSC certificate. The application is rejected.

2. It is not the case of the petitioner that the name of the petitioner was wrongly recorded in the SSC certificate. The petitioner, on his own volition, got his name changed and by the *Government Gazette* in the year 2019. *Prima facie*, we feel that changed name of the petitioner, in all the certificate issued to the petitioner prior to change in name of the petitioner, cannot be recorded.”

3. We have considered the extensive submissions of the learned counsel for the respective parties. The petitioner has put-forth prayer clause (C) which reads as under:

“C. By issuance of writ of mandamus, or any other appropriate writ, or directions the respondent no.2 be directed to consider favourably the application of the petitioner and make change in name of petitioner as “**Ansari Syed Arbaz Akhtar**” to “**Syed Arbaz Syed Akhtar**” in SSC Board Certificate and Marks Memo of the petitioner in the interest of justice.”

4. The contention of the petitioner is that his name was

recorded in the birth certificate as Syed Arbaz Syed Akhtar. The same name has also been recorded in his aadhar card. Inadvertently, his father has entered his name in the school as Ansari Syed Arbaz Akhtar. On the basis of the same, it is contended that as the name in the birth certificate is recorded as Syed Arbaz Syed Akhtar and as the same name is recorded in the aadhar card, the petitioner has opted for a change of name.

5. The learned AGP has pointed out that the father of the petitioner prepared documentation and submitted the same to the Maharashtra State Gazette. In the issue for January 24-30, 2019, he got the change of name for himself, his elder son as well as the younger son i.e. the petitioner, in one stroke. All of these three persons gave up their name beginning with Ansari and by deleting the word Ansari, all three of them got their names changed. The learned AGP Shri Yadav further submits that the Maharashtra Government Gazette clearly mentions at the top of the first page that the government accepts no responsibility as to the authenticity of the contents of the notice since they are based entirely on the application of the concerned persons without verification of documents.

6. The learned full bench of this Court has dealt with the issue of change in caste, name, surname etc., in ***Janabai d/o Himmatrao Thakur Vs. State of Maharashtra and Ors, 2019 (6) Mh.LJ 769***. We find that the learned full bench has framed three questions which read as under:

"(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) (3) WP No.8085/2017 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. "

7. The learned full bench has answered the above three questions in paragraph no.39 which reads as under:

"39. This being the position, We answer Question Nos.(A) & (C) in the following terms :

(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 (46) WP No.8085/2017 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. “

8. There is no dispute that the petitioner has completed his schooling education and has also completed 12th std education. The father of the petitioner entered his name in the school records beginning with Ansari as he himself carried the name which began with Ansari. There is no dispute that the admission of the petitioner in the two schools that he has attended, the name of the petitioner was entered with the opening word Ansari.

9. The submissions of the learned advocate for the

petitioner, on instructions, are that the name of the petitioner does not carry the word Ansari and as the birth certificate and the aadhar card do not carry the name Ansari and since the name Ansari is not related to his family, he has opted for a change of name. Such instructions given to the learned advocate are apparently an attempt to play tricks on the Court. The father of the petitioner along with himself got the names of his two sons changed in one stroke by relinquishing the name Ansari. As such, the case presented before us by the petitioner i.e. the actual name is Syed Arbaz Syed Akhtar and not Ansari Syed Arbaz Akhtar, is apparently a lie.

10. The case of the petitioner is squarely covered by the answer of the learned full bench in paragraph no.39 (c) which is reproduced above. The change in name or surname can be permitted if it is noticed that a wrong name was entered either due to reasons or a cause which was unnoticed before. This is not the case in the present petition. The father of the petitioner consciously got the names of the three adults of the family changed.

11. In view of the above, we are not inclined to exercise our extra-ordinary jurisdiction under Article 226 of the Constitution of India. This petition, being devoid of merits, is therefore dismissed. Rule is discharged.

(S.G. MEHARE. J.)

(RAVINDRA V. GHUGE, J.)