

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1644 OF 2021

SHAIKH MOHSIN SHAIKH AYYUB
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.C.V.Thombre, Advocate for the petitioner.
Mrs.M.A.Deshpande, AGP for respondent Nos. 1 and 3.
Mr.U.S.Mote, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE AND
S.G. DIGE, JJ.)

DATE : APRIL 28, 2022

PER COURT :

1. By this petition, the petitioner prays that his date of birth appearing in the school and statutory records as 15.01.1998, be altered to 15.01.1997. He desires that his age should be grown/increased by one year. He is not seeking change in his date of birth so as to reduce his age.

2. We have considered the strenuous submissions of the learned Advocates for the petitioner and respondent No.4 and the learned AGP on behalf of respondent Nos. 1 to 3.

3. There is no dispute that the petitioner acquired admission in the first standard when he was 5 years of age and he passed out his S.S.C. examination in June 2013 at the age of 15 years. We do not find anything unusual about this aspect.

4. The petitioner submits that the gram panchayat record indicates that his date of birth is 15.01.1997. It is well settled that in the absence of any statutory record, the certificate from the gram panchayat may have persuasive value. However, if the school record indicates a particular date of birth, very strong reasons have to be assigned to change the said record.. Such alteration of the record is further limited by the judgment of the learned Full Bench of this Court in the case of **Janabai d/o Himmatrao Thakur Vs. The State of Maharashtra and others [2019(6) Mh.L.J. 769]**. In the light of the answers offered by the learned Full Bench, to the issues cast, in paragraph No.39 in paragraph (a) to (d). As such, the correction can be permitted if there is an 'obvious mistake' and such an obvious mistake must appear plain and simple to the eye.

5. We find that the petitioner got his new birth date registered with

the Gram Panchaya Bodkha, Tal.Khultabad on 15.10.2020. With this registration, he got the birth certificate issued on the same day, instantaneously. His date of birth is then mentioned as 15.01.1997. These dates are self explanatory and indicate that the petitioner has acquired this document on 15.10.2020. This further indicates that there was no earlier record of his birth. Prior thereto, the petitioner filled in a form so as to be published in the Maharashtra Government Gazette- Thursday to Wednesday, June 25 - July 01/2020 in which it is mentioned that his old birth date with registration number is 15.01.1998 (A-201099). His new birth date is 15.01.1997. Such publication in the Maharashtra State Gazette has no legal value in view of the disclaimer note as under :-

" Note - 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. It is thus clear that based on such a document, the petitioner not only approached his school to get the date of birth corrected, he approached respondent No.3 / Education Officer Dr.B.B.Chavan, who has blindly corrected the date of birth. There is no application of mind by Dr.Chavan to the material placed before him.

7. The learned Advocate for the petitioner argues that the petitioner is seeking increase in his age and that establishes his bonafides. We are not impressed by this submission as it is a matter of circumspection as to why would the petitioner desire that his age be increased by one year when he is already in employment. His date of joining employment is not mentioned in the petition. Issue is as to whether the Law would permit such correction. The Law laid down in Janabai case (supra) would not permit such a correction. There is no legal foundation to the claim of the petitioner.

8. In view of the above, this petition is dismissed. We hold that the correction made by the Head Master of the Nutan Bahuuddeshiya Madhyamik Vidyalaya, Cidco, N-11, Aurangabad, as well as the correction at the behest of respondent No.3, are unsustainable and, therefore, inconsequential. We direct the learned Registrar (Judicial) of this Court to place a copy of this order before the C.E.O., Zilla Parishad, Aurangabad for appropriate action against Dr.B.B.Chavan for his aberrant conduct.

(S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)