

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

WRIT PETITION NO. 11423 OF 2023

Ishwarsing S/o. Ladusing Kakarwal
Age 32 years, Occ. Agriculture,
R/o. At Post Hajipurvadi, Shivur Vaijapur
Tq. Vaijapur & Dist.Aurangabad.

... Petitioner

Versus

1. Education Officer (Primary)
Zilla Parishad, Aurangabad,
Dist. Aurangabad.
2. Education Officer (Secondary)
Zilla Parishad, Aurangabad.
3. Maharashtra State Board of Higher
and Secondary Education, Pune
office at 1, Railway Station Rd,
Rachnakar Colony.
New Usmanpura, Aurangabad,
Maharashtra 431 005.

... Respondent/s.

Mr. Sunny Santosh Khivansara, Advocate for the petitioner.
Mr. A.V. Deshmukh, AGP for the respondent Nos. 2 and 3
Mr. S.R. Dhelpe, Advocate for respondent No.1.

**CORAM : DEVENDRA KUMAR UPADHYAYA, C.J.
& ARUN R. PEDNEKER, J.
DATE : 13th OCTOBER, 2023.**

ORAL JUDGMENT :-

1. Heard learned counsel for the petitioner and Shri A.V. Deshmukh, learned AGP for respondent Nos. 2 and 3.

2. This petition seeks to assail the order dated 5.11.2020 passed by the Education Officer (Secondary), Zilla Parishad, Aurangabad – Respondent No.2, whereby, the prayer made by the petitioner seeking corrections in the school record of Primary School, Shivur, Taluka Vaijapur, District Aurangabad, has been rejected, stating the reason that such corrections cannot be permitted as the petitioner had left the school.

3. It has been argued by the learned counsel for the petitioner that by making application seeking corrections in the school record dated 17th August, 2020, the petitioner had prayed that in the school record, his caste has wrongly been described as 'Rajput Bhamta' in place of 'Pardeshi' and further that his date of birth has also been wrongly described as "11.06.1989" in place of "11.06.1991". Accordingly, correction in the school record was sought. It is submitted that the said record could be corrected, however, by refusing the prayer made by the petitioner, the respondent No.2 has acted arbitrarily and illegally.

4. On the other hand, learned AGP has argued that in view of the Full Bench judgment of this Court in the matter of **"Janabai vs. State of Maharashtra" 2019(6) Mh.L.J. 769**, since the corrections sought to be made were not in relation to

`obvious mistakes', the order passed by the respondent No.2 which is under challenge in this petition, does not suffer from any illegality.

5. Having heard the learned counsel for the parties and having perused the judgment of the Full bench of this Court in the case of "*Janabai*" (*supra*) we are of the opinion that the prayers made in this writ petition are mis-conceived. The issue as to the scope and nature of correction which can be effected in a school record under the provisions of the Maharashtra Secondary School Code, came to be considered by the Full Bench of this Court in the case of "*Janabai*" (*supra*), which concluded in para. 39 of the said judgment, 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 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. If we peruse the law declared by the Full Bench in the case of "Janabai" (*supra*), what we notice is that no application for alteration in the figure of date of birth is permissible after the student has left the school, except for correction in the nature of an 'obvious mistake', such as mistake of a nature, where date of a particular month which does not exist in the calendar stands recorded and other like mistakes.

7. The Full Bench has also held that the application for change in the name, surname or caste can be made only in case where errors being pointed out are the errors which fall within the category of 'obvious mistakes'.

8. The question for our consideration in this case, thus, in the light of the Full Bench judgment, is as to whether the correction sought to be made by the petitioner can be said to

be falling within the meaning of the expression 'obvious mistakes' as mentioned in clause 26.3 of the Maharashtra Secondary School Code.

9. Clause 26.3 of the Maharashtra Secondary School Code is extracted hereinbelow :-

"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 student 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."

10. Afore-quoted clause 26.3 though does not exactly defines as to what is 'obvious mistake', however, according to the said clause, 'Obvious mistake' will be a mistake like mentioning a date of a month which does not exist in the calendar, meaning thereby the mistake occurring in the school

record is self-speaking or very obvious, which may require rectification without any detailed enquiry of any nature; e.g. if in a particular year, the month of February has 28 days and in some case, the date of birth of a student in the school record is recorded as 29th February in a year where the month of February has only 28 days, such mistake can be said to be an 'obvious mistake'. The phrase 'obvious mistake' as occurring in clause 26.3 makes the scope of maintainability of application seeking correction in the school record, in the case where student has already left the school, very limited. It is limited to correct the mistake which are 'obvious mistakes', that is to say, which can be deciphered without any strenuous exercise of conducting an inquiry.

11. As already observed above, the petitioner seeks two corrections in his school record. Firstly, the date of birth which is sought to be changed from 11.06.1989 to 11.06.1991 and secondly, in respect of his caste what is claimed is that in place of 'Rajput Bhamta' his caste should be shown as 'Pardeshi'.

12. The aforesaid alleged errors, in our considered view, cannot be termed to be 'obvious mistakes', as per clause 26.3 of the Maharashtra Secondary School Code and hence, we are of the opinion that the prayer for correction as sought by the petitioner has rightly been rejected by the respondent No.2.

13. We thus, do not see any good ground to interfere in the order impugned before us in this writ petition i.e. the order

dated 5.11.2020 passed by the respondent No.2. However, having observed as above, we are also of the opinion that in case the petitioner seeks registration of his birth, he may approach the appropriate authority under Section 13(3) of the Registration of Births and Deaths Act, 1969 and in case the petitioner takes recourse to said remedy, the authority concerned shall consider the same and take appropriate decision, strictly in accordance with law. Similarly, as far as petitioner's claim for his caste is concerned, a complete mechanism is provided to the petitioner, under the provisions of Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other backward classes and Special Backward Class Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. He may take recourse to the remedy under the said provisions.

14. We make it clear that in case the petitioner approaches the authorities under the Registration of Births and Death Act, or under the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other backward classes and Special Backward Class Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, the existing entries in his school record will only be one of the several relevant documents/evidence to consider the claim of the petitioner.

15. With the aforesaid observations, writ petition stands disposed of.

[ARUN R. PEDNEKER, J.]

[CHIEF JUSTICE]

grt/-