



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2146 OF 2024

Anant Laxmanrao Jadhav

...Petitioner

Versus

1. State of Maharashtra
2. Education Officer (Primary)
Zillha Parishad, Education Department,
Nanded.
3. Head Master,
Zillha Parishad High School,
Tq: Ardhapur, Dist. Nanded

...Respondents

...

Mr. G. R. Jadhav, Advocate for the Petitioner

Mr. P. K. Lakhotiya, AGP, for the Respondent No. 1

Ms. Yogita Thorat, Advocate for Respondent Nos. 2 and 3

...

CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ
RESERVED ON : MARCH 11, 2024
PRONOUNCED ON : MARCH 19, 2024

ORDER (PER R. M. JOSHI, J)

1. By consent, heard finally at the stage of admission.

2. This Petition is filed by the Petitioner seeking direction to the Respondents to correct his date of birth in school record from 20.05.1979 to 20.05.1981.

3. The Petitioner is aged about 43 years with

occupation as a labourer. It is his case that he was admitted in Nanded Municipal Primary School, Nanded on 01.07.1986 and the date of birth mentioned in transfer certificate is indicated as 20.05.1981. It is his further claim that in the Nanded Municipal Primary School his date of birth is correctly recorded, however, when he was admitted in another school i.e., Zilla Parishad High School, Ardhapur, his date of birth is wrongly recorded as 20.05.1979. It is claimed that the said mistake has been committed by Respondent No. 3. It is claimed by the Petitioner that on account of incorrect date of birth mentioned in the school record, he is facing various difficulties, such as problem in education, recruitment in government services, etc. The Petitioner has relied upon documents indicating his date of birth in the school leaving certificate of Nanded Municipal Primary School and other documents pertaining to Zilla Parishad High School, Ardhapur. He also relied upon one certificate issued in the year 1996 by Nanded Taluka Krida Mahotsav Samiti, Nanded. With these averments supported by documents, Petitioner is seeking *Writ of Mandamus* to the Respondents to correct his date of birth in the school record.

4. The issue with regard to the correction in the school record has been set to rest by the Full Bench judgment of this Court in the case of *Janabai Himmatrao Thakur Vs. State of Maharashtra and Others, 2019 (6) Mh.L.J. 769*. Paragraphs 23, 24 and 25 of judgment contain the following observations:

23. We now come to the core issue in hand, namely :

"(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."

The consideration of this issue depends upon the language of Clause 26.3 and 26.4 of the S.S. Code, which read as under:

26.3

- 1 No alteration in the date Application for change or of birth or other entries correction of date of in the **General Register**, birth, name, surname, caste including correction of etc. as entered in the spelling shall be allowed **General Register** shall be without the previous entertained from or on permission of the behalf of a pupil who is appropriate authority. **attending** a school.

(General principle)

26.4

(General Principle)

- 2 No such alteration in the Such application shall not figure of Date of Birth be entertained from or on shall, however, be behalf of a pupil, who has allowed even with such left the school, as the permission after the same amounts not only to a student has left change in the entries in secondary school. the General Register but (Limitation) also to a change in the School Leaving Certificate. (Limitation)
- 3 This shall not however However, for the purposes preclude corrections of like an admission to obvious mistakes, that is another educational the date of a particular institution the School Leaving Certificate is month which does not Leaving Certificate is exist in the calendar. (Exception) relied upon as an evidence for name, surname, caste, date of birth etc., and hence in bonafide 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 applications shall be entertained. (Exception)
- 4 Before giving sanction to The procedure to be correct spelling or the followed in such cases is obvious mistake in laid down in Appendix Six." figures, the same shall (Procedure) 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.

(Procedure)

24. A look at the comparative table above, will demonstrate the marked differences between the language of Clauses 26.3 and 26.4 of the S.S. Code and will indicate that they overlap and also operate in different fields at the same time. While Clause 26.3, permits change of the entries in the General Register, it, at the same time restricts the time span and the nature of the change in respect of certain entries therein after a student/pupil has left school, which is indicated by the Third sentence of Clause 26.3. The restriction is demonstrated by the absolute embargo cast upon any change in the date of birth, except for the obvious error as indicated therein, after a student has left school, as is indicated by the second sentence in Clause 26.3. It would not be out of context to point out here that Clause 26.3, does not speak of the School

Leaving certificate at all. In consonance with this the Second sentence of Clause 26.4, continues this prohibition, of not permitting any change at the behest of a pupil who has left school, as the same according to the language used not only amounts to a change in the entries in the General Register, but in the school leaving certificate also. The third sentence in

Clause 26.4, however permits any change in the entries as recorded in the School Leaving Certificate, only so as to bring these entries in consonance with the existing entries in the General Register. Thus a conjoint reading of the various sentences in Clauses 26.3 and 26.4, with each other, leads us to the following conclusion :

- (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) An application for change in the spelling of the name, or for that matter in the name, surname or caste are errors which fall within the category of obvious mistakes, and thus can be made, even after the student has left school in light of the language of Clause 26.3.
- (d) For the purposes like an 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 .

25. This to us appears to be the position on a plain reading of the language of

Clauses 26.3 & 26.4 of the S.S. Code. It is further apparent that any change as permissible as contemplated by Clause 26.4, is only for the purposes of securing admission to another educational institution, in which process, the School Leaving Certificate is relied upon as an evidence for the name, surname, caste, date of birth etc and not otherwise. This is so for the further reason that when a person secures employment, all of his particulars like, name, surname, caste and date of employment are entered in his service book which entries are at the instance of such person and thus a person cannot claim ignorance of such entries. Once these entries are made in his service book, the matter is then governed by the relevant Service Rules, which for a service in the employment of the State of Maharashtra are the Maharashtra Civil Services (General Conditions of Service) Rules 1981 and specifically Rule 38. Thus the provisions of Clauses 26.3 and 26.4, contemplate a limited change, to the extent indicated above.

5. Finally, in paragraph 39, the issues referred to the Full Bench have been answered 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. Thus, it is held therein that even though a candidate has left a school, clause 26.4 of the Secondary School Code can be invoked, if there is an obvious mistake in school records. It is clear that though it is open for the Petitioner to seek correction of the school record even at this stage, question arises as to whether the Petitioner is in a position to show an obvious mistake on the part of the Respondents in recording his date of birth in the school record.

7. Perusal of the documents placed on record clearly indicate that the old documents pertaining to the year 2001 issued by the Zilla Parishad High School, Ardhapur indicate that in the school leaving certificate issued by the Zilla Parishad High School, Ardhapur dated 27.03.2001, the date of birth of the Petitioner is mentioned as 20.05.1979. The said certificate seems to have been issued on the basis of a register maintained by the school and the extract thereof indicates the same date of birth. As against this, the Petitioner is seeking to place reliance on the documents issued in the years 2019 and 2023 in which the date of birth of the Petitioner is recorded as 20.05.1981. There is nothing on record to indicate that any mistake has been committed by the Zilla Parishad High School, Ardhapur while recording the date of birth of the Petitioner as 20.05.1979. There is further no evidence placed on record to substantiate claim of Petitioner about the date of birth on the basis of unimpeachable evidence such as birth certificate, entry in the birth register or school register etc.

8. Considering the fact that the old record i.e., of year 2001 indicates the date of birth of the Petitioner as 20.05.1979, as against this, the certificate issued in the year 2019 of school to which the Petitioner though was admitted in year 1986, are sought to be issued in year 2019 & 2023. In our view, such evidence does not inspire confidence so as to convince this Court to correct date of birth as claimed.

9. Since the Petitioner was unable to show any obvious mistake on the part of school authority in recording his date of birth as 20.05.1979 instead of 20.05.1981, he would not succeed in the Petition.

10. In the result, this Writ Petition stands dismissed.

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)