

(2023) 05 BOM CK 0016
In the Bombay High Court
Case No : Writ Petition No. 4200 Of 2023

Babasaheb

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 03-05-2023

Acts Referred:

Citation : (2023) 05 BOM CK 0016

Hon'ble Judges : Ravindra V. Ghuge, J; Sanjay A. Deshmukh, J

Bench : Division Bench

Advocate : A. R. Salve, V. M. Kagne, U. B Bondar

Final Decision : Allowed

Judgement

Sanjay A. Deshmukh, J

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

2. The Petitioner is a student. He took education in Respondent No.3 school run by Zilla Parishad, Aurangabad, at village Chowka, Tq. and District Aurangabad, from 1st to 7th standards. Thereafter, he completed his education from 8th to 12th standards in the New High School, Chowka run by Marathwada Shikshan Prasarak Mandal, Aurangabad, till 2022. He came to know that there are incorrect entries of the names of his parents i.e. Dattu and Nanubai instead of Datta and Ranjana. The Petitioner approached the authorities i.e. Respondent Nos. 2 and 3 by submitting a representation for correction in the names of his parents. However, Respondent Nos. 2 and 3, by letters dated 21.07.2022 and 25.08.2022, refused to correct the record of the Petitioner. The Petitioner submitted that he had filed online application for joining the services in the Indian Army as an "Agniveer". He has qualified all the tests, including the physical fitness and he is having hope of selection in the Indian Army as an "Agniveer". Therefore, he requires such corrected documents. He, therefore, prayed for necessary directions to Respondent Nos. 2 and 3 for making

correction in his school record in the name of his parents, as prayed for.

3. The Petitioner has been relied upon the documents, viz. school leaving certificates of both the schools, a copy of his representation sent to the school, reply given by Respondent No.2, refusing to correct the names of parents, the documents regarding recruitment in the Indian Army and affidavit of mother of the Petitioner, as to her correct name, as Nanubai.

4. The learned advocate for the Petitioner argued that the error in the name of parents of the Petitioner is caused because of illiteracy of his parents, which can be seen from the thumb impressions of the mother of the Petitioner appearing on her affidavit. He prayed to allow the writ Petition in the interest of justice.

5. The learned advocate appearing for Respondent Nos. 2 and 3 submitted that such correction cannot be made after leaving of the school as per the Clause 26.4 of the Secondary School Code. The learned advocate prayed for dismissal of the writ Petition.

6. The school leaving certificate of the Petitioner shows that his father's name is Dattu and his mother's name is Nanubai. It was continued till completion of his education up to H.S.C. The affidavit of the mother of Petitioner, clarifies that her name is Ranjana and name of her husband is Datta. There is no reason to disbelieve the contention of the Petitioner and the affidavit of his mother.

7. A reliance can be placed on the judgment of the Full Bench of this Court, delivered in Janabai vs. State of Maharashtra (2019) (6) Mh.L.J. 769). In the said judgment, the Full Bench of this Court has answered the issues in paragraph 39 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. Considering the ratio laid down in *Janabai vs. State of Maharashtra* (supra) and the factual matrix of this case, in the interest of justice, the prayer of the Petitioner can be allowed and the direction to the respondents to make correction in the record of name of his father as “Datta” and mother as “Ranjana”, can be given in the interest of justice.

9. For the reasons discussed above, the arguments of the learned advocate for the Respondents and the learned A.G.P. are not accepted.

10. In view of the above reasons, writ Petition is allowed in terms of prayer clauses “B” and “C”.

11. Rule made absolute in the above terms.

12. No order as to costs.