

(2016) 03 BOM CK 0176
In the Bombay High Court
Case No : Writ Petition No. 2795 of 2015

Fakir S/o Lala Shaikh, Latur

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 11-03-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) MCR 1053

Hon'ble Judges : S.S. Shinde and V.L. Achliya, JJ.

Bench : Division Bench

Advocate : Mr U.R. Awate, h/f Mr S.B. Talekar, Advocates, for the Petitioner; Mr N.B. Patil, AGP, for the Respondent/State; served, for the Respondent No. 3 and 4

Final Decision : Allowed

Judgement

S.S. Shinde, J.(Oral)—Rule. Rule made returnable forthwith. Heard finally with the consent of the respective parties.

2. The limited relief prayed in this Writ Petition is for direction against respondent No. 2 ? Education Officer (Secondary), Zilla Parishad, Latur to effect correction in respect of the surname of petitioner as "Shaikh", which has been inadvertently recorded as "Chaprasi" in the school record of respondents No. 3 and 4.

3. Learned counsel for the petitioner submits that, the real surname of the petitioner is Shaikh, however, his surname was wrongly recorded as "Chaprasi" instead of "Shaikh" at the time of admission for 1 st standard in respondent No. 3 - Zilla Parishad Primary School, Bhokaramba and same was continued to be "Chaprasi" in respondent No. 3 as well as respondent no. 4 Schools, which is evident from the School Leaving Certificates issued by the said respondents.

4. Learned counsel for the petitioner submits that, his surname is correctly recorded in the Government gazette for changing name as "Shaikh", which is evident from the copy of government gazette published by State of Maharashtra on 13.12.1990. It is the contention of the petitioner that, his father namely; Lala

s/o Shaikh, real uncle namely Yajab s/o. Abdul Shaikh and real brother namely, Mirja s/o. Lala Shaikh have surname as "Shaikh", which is evident from the copies of School leaving certificates dated 12.03.2014 and 20.03.2014 issued by respondents No. 3 and 4, nonetheless petitioner's surname has been recorded as "Chaprasi" by respondents No. 3 and 4. Learned counsel for the petitioner submits that, the petitioner should not suffer for the mistake committed by respondents No. 3 and 4.

It is the contention of the petitioner that, when he got knowledge about the said mistake, he immediately approached respondents No. 3 and 4 - school authorities and requested for correction in respect of his surname by filing appropriate application with necessary documents provided under Appendix - Six vide Rule 26.4 of Secondary School Code. He further submits that, respondent No. 4 had forwarded the proposal to respondent No. 2 ? Education Officer (Secondary), Zilla Parishad, Latur, to correct surname entry by filing appropriate application, however, the Education Officer had refused to accept the said application holding that he has no authority to change the surname after petitioner has left the school.

5. Learned counsel for the petitioner, so as to bolster his case, has placed reliance on the judgments and orders of this Court dated 28.10.2010 in Writ Petition No. 3309 of 2010 (Vilas s/o Bajirao Bhaware & Anr. v. The State of Maharashtra & Ors.), 15.01.2010 in Writ Petition No. 4264 of 2009 (Vinod s/o Bapurao Singewar v. The State of Maharashtra & Ors.) and 08.02.2010 in Writ Petition No. 704 of 2010.

6. This Court vide judgment and order dated 08.02.2010 delivered in Writ Petition No. 704 of 2010, has held that, as per Government Resolution dated 16.03.1983 read with Appendix Six of the Secondary School Code, the authority is vested with the powers to sanction the corrections.

7. In that view of the matter, we allow the petition by permitting the petitioner to make fresh application through respondent No. 4. Respondent No. 4 shall forward the same to respondent No. 2 - Education Officer (Secondary), Zilla Parishad, Latur within a period of two weeks from the date of receipt of said application. Respondent No. 2, on receipt of the said application, shall decide the same on its merits in the light of observations made herein above and the provisions under Appendix-Six vide Rule 26.4 of Secondary School Code and Schedule thereunder, within a period of one month thereafter.

8. Rule made absolute in the aforesaid terms with no order as to costs.