
(2022) 09 BOM CK 0048
In the Bombay High Court
Case No : Writ Petition No.8620 Of 2022

Govind Ramrao Solanke

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 16-09-2022

Acts Referred:

Citation : (2022) 09 BOM CK 0048

Hon'ble Judges : Ravindra V. Ghuge, J; Arun R. Pedneker, J

Bench : Division Bench

Advocate : M. K. Bhosale, M. L. Muthal, S. G. Karlekar

Final Decision : Dismissed

Judgement

Arun R. Pedneker, J

1. Rule. Rule made returnable forthwith. With the consent of the parties heard finally.
2. The petitioner has filed the present writ petition seeking direction to the respondent No.4 – Head Master, Zillha Parishad Primary School, Murti, Tq. Ghansawangi, Dist. Jalna, to correct the date of birth in the school record where the petitioner was studying from 22/01/1991 to 22/08/1993.
3. It is the case of the petitioner that his actual date of birth is 22/08/1993 and at the time of admission at Anganwadi, his date of birth was correctly recorded. At the time of his admission to 1st Standard in the respondent No.4- Zillha Parishad Primary School, Murti, his birth date was wrongly entered as 22/02/1991. Accordingly, the same birth date was mentioned in the School Leaving Certificate. The father of the petitioner, thereafter, filed an application dated 10/11/2021, for correction of the school record. The application filed by the father of the petitioner, was forwarded to respondent No.2 - Education Officer (Primary) for correction of the birth date in the school record. The petitioner had also filed Criminal Misc. Application No.90 of 2021, before the Judicial Magistrate

(F.C.), Ghansawangi, independently for recording of his birth date, under the Registration of Births and Deaths Act, 1969. He contended in the said application that he was born on 22/08/1993. In support of the said application, he filed evidence in the form of a certificate given by Gramsevak, copy of public notice issued in daily newspaper 'Anand Nagri', dated 07/01/2022. On the basis of the said evidence, the Judicial Magistrate (F.C.) Ghansawangi, had decided the said Criminal Application and had directed to register the entry of birth of the petitioner as 22/08/1993 in the concerned register on payment of prescribed fee. All these records were filed with the application which was forwarded to respondent No.2 - Education officer (Primary). The petitioner has approached this Court seeking a direction to the respondents, particularly respondent Nos.2 and 3, to direct them to correct the petitioner's birth date in the school record.

4. The issue of change of birth date in school record has been considered by the Full Bench Judgment of this Court, in the case of Janabai d/o Himmatrao Thakur Vs. The State of Maharashtra and Ors., reported in 2020 (1) ALL MR 360 (F.B.), wherein it has been held at paragraphs No.23, 24 as under :-

"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."

(emphasis supplied)

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

26.4

1 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. (General principle)

Application for change or correction of date of birth, name, surname, caste etc. as entered in the General Register shall be entertained from or on behalf of a pupil who is attending a school. (General Principle)

2 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. (Limitation)

Such application shall not be entertained from or on behalf of a pupil, who has left the school, as the same amounts not only to a change in the entries in the General Register but also to a change in the School Leaving Certificate. (Limitation)

3. This shall not however preclude corrections of obvious mistakes, that is the date of a particular month which does not exist in the calendar. (Exception)

However, for the purposes like an admission to another educational institution the School Leaving Certificate is 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 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. (Procedure)

The procedure to be followed in such cases is laid down in Appendix Six.” (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."

5. At paragraph No.39 of the said Judgment of Janabai (Supra), this Court concluded 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. (emphasis supplied)

(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. In the Judgment of Janabai (Supra), the Full Bench of this Court laid down the parameters under which the birth date in school entry can be altered. The Full Bench in the above case at paragraph No.39 has held that no application for alteration in the figure of the date of birth is permissible after the student has left secondary school, except correction in the nature of ‘obvious mistake’, where the date of a particular month which does not exist in the calendar and likewise.

7. The petitioner had applied for correction of the birth date in the school record after he had left the school and as such in view of the aforesaid Judgment of Janabai (Supra), the petitioner’s prayer for change, which is not in the nature of ‘obvious mistake’, cannot be accepted. Thus, the present writ petition cannot be entertained. Hence, this petition is dismissed. Rule is discharged.