

(2023) 10 BOM CK 0054
In the Bombay High Court
Case No : Writ Petition No. 5925 Of 2022

Rushikeshb

APPELLANT

Vs

Deputy Director Of Education And Others

RESPONDENT

Date of Decision : 23-10-2023

Acts Referred:

Secondary Schools Code, 2006 — Rule 26.3, 26.4

Citation : (2023) 10 BOM CK 0054

Hon'ble Judges : Prithviraj K. Chavan, J;Urmila Joshi-Phalke, J

Bench : Division Bench

Advocate : P.R. Agrawal, H.N. Prabhu, P.B. Patil, Bhavya Dhruv

Final Decision : Allowed

Judgement

Prithviraj K. Chavan, J

1. Rule. Rule made returnable forthwith. Learned AGP waives service.
2. By consent, taken up forthwith for final disposal.
3. The petitioner is aggrieved with the impugned order of the respondent no.1, who declined to correct his date of birth in the Leaving Certificate as well as mark-sheet of HSC examination and all consequential documents thereafter.
4. The date of birth of the petitioner is 07.06.1997 which has been recorded with the Nagpur Municipal Corporation under the provisions of Registration of Birth and Death Act, 1969. The petitioner was admitted at Indira Primary School at Nagpur for his primary school education. His date of birth has been correctly mentioned in the school record. Thereafter, the petitioner was admitted at respondent no.5 – Saraswati Vidyalaya, Nagpur for his further studies on 11.05.2006. At the time of his admission in the said school, his date of birth was incorrectly recorded as 07.06.1996 instead of 07.06.1997. In order to pursue further education, the petitioner took admission on 31.07.2012 for prosecuting his 11th and 12th Standard. For that purpose, he was admitted in the respondent

no.4 High School and Junior College. He passed 12th Standard examination in February, 2014.

5. In the Leaving Certificate, the date of birth which was incorrectly mentioned by respondent no.5 was pursuant to his earlier school record by the respondent no.4.

6. The petitioner thereafter took admission in the respondent no.3 Engineering College for prosecuting his studies in B.E. (Information Technology) which was a 4 years course. During his engineering education, the petitioner learnt about the incorrect entry in respect of his date of birth in school record by Saraswati Vidyalaya.

7. He, therefore, approached the concerned authorities of respondent no.5 – Saraswati Vidyalaya as well as respondent no.2 – Maharashtra State, Board of Secondary and Higher Secondary, Pune, Office at Nagpur in order to correct the mistake. The respondent no.5 corrected the date of birth and accordingly issued Leaving Certificate on 20.02.2020 in favour of petitioner indicating that the correct date of birth of the petitioner is 07.06.1997.

8. Based on the corrected School record, respondent no.2 had issued corrected SSC examination certificate by mentioning his correct date of birth as 07.06.1997. The respondent no.3 had forwarded proposal of correcting the date of birth of the petitioner in the 12th examination record.

9. However, by the impugned communication dated 08.09.2020, respondent no.1 i.e. Deputy Director of Education, Nagpur has turned down the request of the petitioner citing the reason that correction in date of birth is not permissible in view of Rule 26.3 of the Secondary Schools Code.

10. We have heard learned Counsel for the petitioner and the learned AGP.

11. The present petition is covered by a decision of the co-ordinate bench of this Court (Coram : R.K. Deshpande & Vinay Joshi, JJ) in Writ Petition No.2126 of 2017 in the case of Kailash S/o Vitthalrao Verulkar Vs. Deputy Director of Education, Amravati Division, Amravati & Ors., dated 19.10.2018.

12. The learned AGP is ad idem with the petitioner on the said issue. Nevertheless, a bare look at the impugned communication dated 08.09.2020 itself indicates that respondent no.1 had misinterpreted the provisions of Rule 26.3 of the Secondary School Code.

13. Bare look at Annexure-A, which is birth certificate of the petitioner indicates his date of birth as 07.06.1997. His school leaving certificate issued by Indira Primary School also reveals his date of birth as 07.06.1997. The only error appears to have been committed by respondent no.5 in the Leaving Certificate of the petitioner, wherein his date of birth has been shown as 07.06.1996, which continued in the leaving certificate issued by respondent no.4.

14. Even, the certificate issued by the respondent no.2 correctly mentions the

date of birth of the petitioner as 07.06.1997.

15. The respondent no.1, while rejecting the proposal of the petitioner by the impugned order, committed a grave error in quoting Rule 26.3 instead of Rule 26.4, which would cover the facts of the present petition. It seems that because of misinterpretation of the said provisions, the impugned order has been passed.

16. Rule 26.4 of the Secondary School Code contemplates :-

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

17. This Rule essentially deals with correction of date of birth, name, surname, caste etc. as entered in the General Register which should not be entertained from or on behalf of a pupil. The Rule further provides that in bona fide cases where wrong spelling of 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. It further provides that the procedure to be followed in such cases is laid down in Appendix-6.

18. As already stated hereinabove, the petitioner has tendered his birth certificate issued by the Nagpur Municipal Corporation, Leaving Certificates of his primary school as well as corrected school leaving certificate by respondent no.5 – Saraswati Vidyalaya and the mark-sheet issued by the Board indicating his correct date of birth. It is apparent that it was an obvious mistake in the date of birth, committed by Saraswati Vidyalaya in Leaving Certificate (Annexure-C), which needs to be corrected so as to be consistent with the corresponding entries in the other documents, which are referred to hereinabove. Even, Rule 26.3 contemplates that the authorities shall not preclude in making corrections of obvious mistakes in figures, which shall be verified with the original evidence produced by the pupil.

19. Consequently, the impugned order needs to be quashed and set aside as it has not been passed in consonance with Rule 26.4 of the Secondary School Code.

20. Accordingly, the petition is allowed by passing the following order :-

ORDER

(i) The impugned communication dated 08.09.2020 (Annexure-J) by respondent no.1 is quashed and set aside.

(ii) The respondent no.1 is directed to make necessary corrections in view of Rule 26.4 of the Secondary School Code, in any case, within four weeks from passing of this order.

(iii) Rule is made absolute in the aforesaid terms. No costs.