

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 3080 of 2024**

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PATEL BHAVESHKUMAR BABULAL  
Versus  
DISTRICT EDUCATION OFFICER, AHMEDABAD & ORS.

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**Appearance:**

PARTH J BRAHMBHATT(9373) for the Petitioner(s) No. 1  
MR JAYNEEL PARIKH AGP for the Respondent(s) No. 2  
MR AD OZA(515) for the Respondent(s) No. 2  
NOTICE SERVED BY DS for the Respondent(s) No. 1,3

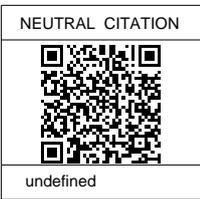
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**CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI****Date : 08/05/2024****ORAL ORDER**

1. RULE, returnable forthwith. Mr.Jayneel Parikh, learned Assistant Government Pleader and Mr.Meet Shah, learned advocate for Mr.A.D. Oza, learned advocate waives service of Rule for and on behalf of the respondent No.1 - State and respondent no.2 respectively. Though served, none appears for and on behalf of the respondent no.3-School.

2. Heard Mr.Parth J. Brahmbhatt, learned advocate appearing for the petitioner, Mr. Jayneel Parikh, learned Assistant Government Pleader and Mr. Meet Shah, learned advocate for Mr.A.D. Oza, learned advocate appearing for and on behalf of the respondent No.1 - State and respondent no.2 respectively. Though served, none appears for and on behalf of the respondent no.3-School.

3. By way of the present petition under Article-226 of the Constitution of India, petitioner herein has prayed for the following reliefs:



“(A) YOUR LORDSHIP may be pleased to admit and allow the petition;

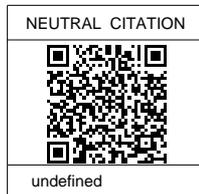
(B) YOUR LORDSHIP may be pleased to quash and set aside the order/communication dated 12.02.2024 (Annexure-A (Colly)) passed by Respondent no. 1 herein;

(C) YOUR LORDSHIP may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction by directing the respondents to make necessary correction in the School Leaving Certificate of the petitioner (Annexure-C) by recording correct surname / caste as per Birth Certificate i.e. "Ramoliya" instead of "Patel" as expeditiously as possible in the interest of justice;

(D) Any other and further relief/s as may be deemed just and proper in the facts and circumstances of the present case may kindly be granted.”

4. By way of the present Petition, petitioner herein challenges the order passed by the respondent no. 1 - District Education Officer, whereby, the respondent no.1 rejected / refused the application of the petitioner to change / correct the surname of the petitioner in the school leaving certificate as per the birth certificate from ‘Patel’ to ‘Ramoliya’, copy of the said order is duly produced at Annexure-A, Pg.11 to the petition.

5.1. Mr.Parth Brahmhatt, learned advocate appearing for the petitioner submits that the petitioner was born on 09.08.1983 at Jasadhar, Taluka: Talala, Gir-Somnath. The birth of the petitioner came to be registered before the competent authority on 16.11.1983 and the birth certificate was duly issued by the concerned authority. The correct surname / caste of the petitioner herein is ‘Ramoliya’ and the same is also reflected in the birth certificate of the petitioner. However, due to inadvertent mistake, in the school leaving certificate, it is recorded as ‘Patel’. It is a mistake, that was realized by the petitioner that the surname is wrongly

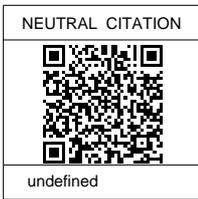


recorded in the school leaving certificate, issued by the respondent no.3 - School and in view thereof, made representations to the respondent no.1 and the copy was also sent to the respondent no.3.

5.2. It is submitted that, it is because of inadvertence, the aforesaid clerical mistake has occurred, and in view thereof, the said mistake be corrected. It is submitted that the said surname / caste of the petitioner is also reflected in the Birth Certificate, School Leaving Certificate, Aadhar Card, etc., of the parents of the petitioner. It is submitted that the respondent authority ought to have considered the petitioner's application dated 08.02.2024 seeking the aforesaid change, on the basis of the birth certificate of the petitioner, which was also produced alongwith the application. It is submitted that, the prayers as prayed for by the petitioner herein may kindly be granted and the respondent authority may kindly be directed to make appropriate change in the petitioner's school leaving certificate.

6. Mr. Jayneel Parikh, learned Assistant Government Pleader appearing for the respondent No.1 - State submits that no error could be said to have been committed by the respondent no.1, while declining to carry-out the changes as prayed for in the petitioner's school leaving certificate. Reliance is placed on Rule-12 of the Gujarat Secondary Education Rules, 1974 and submitted that once the student has left the school, it is not permissible to make the change in the school leaving certificate. In view of the aforesaid, Mr. Parikh, learned AGP submits that no interference is called for under Article 226 of the Constitution of India.

7. Having heard the learned advocates appearing for the respective parties, it appears that the petitioner herein is in receipt



of a birth certificate, which was produced before the competent authority and the petitioner requested for the change in the school leaving certificate. However, the same came to be declined, placing reliance on Rule-12 of the Gujarat Secondary Education Rules, 1974. The aforesaid was the subject matter of consideration before this Court in Special Civil Application No. 4337 of 2006 dated on 09.10.2006, Special Civil Application No. 3259 of 2007 decided on 13.02.2007 and Letters Patent Appeal No. 239 of 2011 decided on 24.11.2011.

8. At this stage, it is apposite to refer to the ratio as laid down by this Court in the case of Vasudev Prahladbhai Patel v/s. State of Gujarat & Ors. reported in 2019(2) GLR 1474, relevant paras of the said decision reads thus:

“8. At this stage, this Court would like to refer the observations made by the learned Single Judge of this Court in the order dated 09.10.2006 passed in Special Civil Application No. 4337 of 2006, especially, Paragraph-9 thereof, which reads as under:

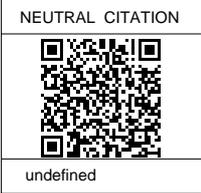
“Para-9. Looking to the facts and circumstances of the case and, the Certificate issued under section 12 and 17 of The Registration of Birth and Death Act,1969 the prayer as prayed for is required to be granted since the documents at Annexure 'A' is a statutory Certificate, which has very high evidentiary value. So far as the facts, which are mentioned in the said Certificate at Annexure “A” reveal the date of birth of the petitioner as 28.08.1982. The details given in the Certificate have been recorded as per the statutory provision under the Act,1969. The date of birth mentioned in Annexure “A” ought to have been reflected in Certificate at Annexure “B” issued by the respondent No.2. The contention raised by the learned counsel appearing on behalf of the respondents that in pursuance of the Rule 12 of Gujarat Secondary Education Rules 1974, such amendment in the school leaving certificate is not permissible, once the student, present petitioner has left the school. This contention is not accepted by this Court mainly for the reason that errors are required to



be corrected. The respondents are not error proof authorities. If the error has been accepted by the respondents denial of corrections of the documents is an arbitrary action. The only question, which is now left out is mandamus operandi for carrying out the corrections in school leaving certificate. There can be several methods of corrections of school leaving certificate like direct correction in the school leaving certificate itself or by keeping the certified copy of birth registration certificate issued by the State of Gujarat under Sections 12 and 17 of the Registration of Birth and Death Act 1969, by the concerned school in their register and amended copy of school leaving certificate can be given to the petitioner or by putting notes in margin that this amendment in the birth date is carried out as per the certificate issued by the State Government, but, total denial by the concerned respondents that they shall not amend the school leaving certificate, despite the certificate of birth issued by the State of Gujarat tantamounts to violation of public duty and hence, writ of mandamus is issued upon the concerned respondents to carry out necessary amendment in school leaving certificate on the basis of document issued by the State of Gujarat namely the Birth Certificate issued under the Act, 1969. It is for the concerned respondent school to keep and preserve a certified/original of Annexure "A" in the school register and thereafter, they can issue the corrected copy of school leaving certificate by putting necessary notes in the margin. But the error has to be corrected by the concerned respondents authorities. There can not be any error, which can not be corrected. Rule made absolute to the aforesaid extent with no order as to costs."

"9. Similar observations were also made in Paragraph-8 of the order dated 13.02.2007 passed by the learned Single Judge in Special Civil Application No.3259 of 2007, which reads as under:

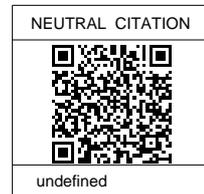
"Para-8. Looking to the facts and circumstances of the case and the Certificate issued under Sections 12 and 17 of the Act, the prayer as prayed for is required to be granted since the document at Annexure 'A' is a statutory Certificate, which has very high evidentiary value. So far as the facts, which are mentioned in the said Certificate at Annexure "A" reveals the date of birth of the petitioner is 12-12-1976. The details given in the Certificate have been recorded as per the statutory provision under the Act. The date of birth mentioned in Annexure 'A' ought to have been



reflected in Certificate at Annexure “B” issued by the respondent No.4. The contention raised by the learned counsel appearing on behalf of the respondents that in pursuance of the Rule 12 of the Gujarat Secondary Education Rules, 1974, such amendment in the School Leaving Certificate is not permissible, once the student, present petitioner has left the school. This contention is not accepted by this Court mainly for the reason that errors are required to be corrected. The respondents are not error proof authorities. If the error has been accepted by the respondents, denial of corrections of the documents is an arbitrary action. The only question which is now left out is mandamus operandi for carrying out the corrections in the School Leaving Certificate. There can be several methods of corrections of School School Certificate like direct corrections in the School Leaving Certificate itself or by keeping the certified copy of birth registration certificate issued by the State of Gujarat under Sections 12 and 17 of the Act, by the concerned School in their register and amended copy of School Leaving Certificate can be given to the petitioner or by putting notes in margin that this amendment in the birth date is carried out as per the certificate issued by the State Government, but, total denial by the concerned respondents that they shall not amend the School Leaving Certificate, despite the certificate of birth issued by the State of Gujarat tantamounts to violation of public duty and hence, writ of mandamus is issued upon the concerned respondents to carry out necessary amendment in School Leaving certificate on the basis of documents issued by the State of Gujarat, namely, the Birth Certificate issued under the Act. It is for the concerned respondent school to keep and preserve a certified/original of Annexure A in the School Register and thereafter, they can issue the corrected copy of School Leaving Certificate by putting necessary notes in the margin. But the error has to be corrected by the concerned respondents authorities. There cannot be any error, which can not be corrected.”

“11. The Division Bench of this Court in the order dated 24.11.2011 passed in Letters Patent Appeal No.239 of 2011, even after considering the provisions of alternative remedy under the concerned regulation, observed in Paragraph-11 as under:

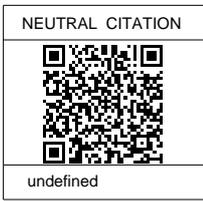
“Para-11. This Court is, therefore, left with two alternatives, first being that to relegate the appellant to the Civil Court for pursuing his cause while setting aside the order impugned and secondly, to set aside



the order impugned and, instead of insisting the appellant to pursue alternative remedy, exercise its extraordinary jurisdiction under Article 226 of the Constitution of India and to issue a direction to the school authorities for making necessary correction, particularly when there is no dispute about the genuineness of the certificate of birth and the date of birth indicated therein. In our view, a citizen need not be made to run from pillar to post for such a genuine and petty cause and we deem it proper to opt for the second alternative in the peculiar facts of this case.”

9. In the aforesaid judgment, wherein, it was held that the change in the school leaving certificate can certainly be carried-out, after the petitioner leaves the school, taking into consideration the public document that may be placed on record. The birth certificate is an authenticated document, which is issued by the State Government and the respondent authorities can certainly be rely upon the birth certificate and make changes in the school leaving certificate. The Hon’ble Division Bench as referred above also considered identical objections, with respect to the petitioner to be relegated to avail the remedy under Rule12 of the Rules, however, it was held that, instead of insisting the petitioner to pursue alternative remedy, exercise of powers under Article-226 of the Constitution of India is required to be undertaken and direct the school authority to make the necessary correction, particularly, when there is no dispute with regard to the genuineness of the birth certificate.

10. Considering the position of law as referred above, the submissions advanced by the learned advocates appearing for the respective parties and considering the aforesaid documents, which are placed on record, the impugned order dated 12.02.2024 passed by the respondent no.1 herein is quashed and set aside. The application dated 08.02.2024 (Annexure-A, Pg.12) seeking the



aforesaid change be considered by the respondent no.1 - State, in accordance with the proposition of law laid down by this Court, as referred herein-above, as expeditiously as possible.

11. With the aforesaid, the present Petition stands disposed of, accordingly.

Direct service is permitted.

Hitesh

**(VAIBHAVI D. NANAVATI,J)**