

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3287 OF 2014

Maroti S/o. Laxman Patil,
Age – 25 Years, Occu.: Education,
R/o. Jigala, Tq. Biloli,
District – Nanded - PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
School Education & Sports Department,
Mantralaya, Mumbai.
2. The Education Officer (Secondary)
Zilla Parishad, Nanded.
3. Maharashtra State Board of
Secondary & Higher Secondary Education,
Latur Division, Latur
Through its Divisional Secretary.
4. The Head Master,
Zilla Parishad Primary School,
Naigaon (Camp), Tq. Naigaon (K.)
District : Nanded.
5. The Head Master,
Janata High school,
Naigaon (Bazar), Tq. Naigaon(K.)

District – Nanded.

- RESPONDENTS

Mr. Ankush N. Nagargoje, Advocate for Petitioner;
Mr. G.K. Naik Thigle, Addl.GP for Respondents No.1
and 2.

Mr. V.R. Sonwalkar, Advocate for Respondent No.3

Mr. S.W. Mundhe, Advocate for Respondent No.4;

Respondent No.5 served.

**CORAM : S.S.SHINDE &
P.R.BORA, JJ.**

DATE : 19th March, 2015.

ORAL JUDGMENT (PER:- S.S.SHINDE, J.)

1) Rule. Rule made returnable forthwith. With the consent of the parties, heard finally.

2) This Petition is filed seeking direction to Respondent No.3 to correct date of birth of the Petitioner as "28.10.1988" instead of "08.05.1988" and issue a fresh S.C.C. certificate in favour of the Petitioner by correcting the date of birth as "28.10.1988"; with further prayer, seeking quashment of letter dated 01st August, 2013 (Exhibit 'E' of the

Petition) issued by Respondent No.3.

3) Counsel for the Petitioner invited our attention to various orders passed by this Court whereby directions were issued to Respondent/ Government Authorities to consider prayer for correction of date of birth in the office record.

. It is submitted that, the Division Bench of this Court, in paragraph 6 of the Judgment Delivered in Writ Petition No.3319/2005 decided on 07th January,2009 (Kishor S/o Sukhdeo Walhekar Vs. State of Maharashtra and Others), has considered the provisions of Secondary School Code, 2002, and in particular, Rule 26.3 and 26.4 thereof, and directed the Government Authorities to consider the Petitioner's application for correction of date of birth in the school record.

. The Counsel for the Petitioner also invited our attention to unreported Judgment of this Court delivered in Writ Petition No.4264/2009 decided on 15th January, 2010 (Vinod S/o Bapurao Singewar Vs. State of Maharashtra and Others), and in particular paragraph 4 thereof, and submitted that the issue on the point the Government Resolution No. GAC-

1083/89/SE-2 dated 16th March, 1983 read with clauses 12 to 15 of Appendix Six of the Secondary School Code fell for consideration before the Division Bench, and upon considering the said Government Resolution read with clauses 12 to 15 of Appendix Six of Secondary School Code, the Division Bench of this Court observed in the facts of that case, that application of the Petitioner was rejected without considering the aforesaid Government Resolution with Clauses 12 to 15 to the Appendix Six of the Secondary School Code, which contemplates that in cases where the students have left the school, the correction in the school record can be carried out by the school on receipt of sanction of the appropriate authority.

4) Learned counsel further invited our attention to other unreported Judgment of this Court on the subject and submits that, the Petition deserves to be allowed.

5) The learned A.G.P. appearing on behalf of Respondent No.1 and learned Counsel appearing for Respondent No.3 submit that, the Judgments of this Court, which are placed on record, referred to above,

did consider the similar issue involved in the Petition. However, in case of correction by the Education Officer, as requested by the Petitioner, the Petitioner will have to apply through the School to the Respondent No.3- Board for further correction in the certificate.

6) We have given our thoughtful consideration to the submissions advanced by the learned counsel for the parties; perused the pleadings in the Petition; annextures thereto and the Judgments of this Court, which are placed on record by the learned counsel for the Petitioner.

. Since the issue raised in this Petition is no longer *res intergra* and covered by the Division Bench Judgment in the case of Kishor Sukhdeo Walhekar Vs. The State of Maharashtra as also the Judgment in the case of Vinod Bapurao Singewar and State of Maharashtra and others (cited supra), for the very same reasons, which are assigned in those Judgments on interpretation of Rule 26.3 and 26.4 of the Secondary School Code, 2002, and observations made in paragraph 4 of the Judgment in the Case of Vinod Bapurao Singewar, we are of the opinion that the

communication dated 1.8.2013 issued by the Education Officer (Secondary), Zilla Parishad, Nanded for rejecting the prayer of the Petitioner for correcting date of birth in the School record, deserves to be quashed and set aside. Accordingly, the impugned communication dated 01.08.2013 issued by Respondent No.2 is quashed and set aside.

7) In the light of the above discussion, we direct the Respondent No.2 to consider the Petitioner's application for change in date of birth afresh in the light of the Judgments of this Court, which are referred here in above and decide the same within a period of six months from today.

. Needless to observe that, in case the application of the Petitioner is allowed for correction of the date of birth in the school record, the Petitioner will have to apply to the Board for further correction in S.C.C. Certificate. In case of correction by Respondent No.2 in the School record, the Petitioner's proposal shall be forwarded through Respondent No.4 to the Respondent No.3 Board, who shall consider the same in the light of relevant regulations and Judgments of this Court.

8) Rule is made absolute in the aforesaid terms
with no order as to cost.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

bdv/