

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

WRIT PETITION NO. 11473 OF 2014

Bharat s/o Vasant Mahale,
Age 47 years, Occ: Service,
r/o Dondaicha, Tq. Sindkheda,
Dist.Dhule.

...PETITIONER

VERSUS

1. Education Officer (Secondary),
Zilla Parishad, Dhule.
2. Education Officer (Primary)
Zilla Parishad, Jalgaon,
Dist. Jalgaon.
3. Nutan Primary School,
Jamner, Tq. Jamner,
Dist. Jalgaon,
through its Head Master.
4. New English School,
Pimpalner, Tq. Sakri,
Dist. Dhule,
Through its Head Master.
5. D.R.B.O.D. High School,
Dondaicha, Tq. Shindekheda,
Dist. Dhule
through its Head Master.

...RESPONDENTS

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Mr. Mahesh S. Deshmukh, Advocate for Petitioner
Mr. N.B. Patil, AGP for Respondent No.1
Respondent nos. 2 to 5 served.

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

DATE : 28th April, 2015

PER COURT:-

1. Rule. Rule made returnable and heard forthwith with the consent of the learned Counsel for the parties.

2. The petitioner seeks quashing of impugned order passed by Respondent No.1 - Education Officer (Secondary), Zilla Parishad, Dhule dated 31.10.2014 and so also, order passed by Respondent No.2 Education Officer (Primary), Zilla Parishad, Jalgaon, dated 12.11.2014, refusing to grant permission regarding correction of school record of petitioner.

3. A limited grievance raised in this petition is that the application filed by the petitioner for correction of his caste has been rejected on the ground that the petitioner has already left the school. According to the learned Counsel for the petitioner, the application of the petitioner should not have been rejected simply on the ground that the petitioner has left the school. In support of his contention, he places reliance on the judgment of this Court in case of **Vilas Dattatraya Ransubhe Vs. State of Maharashtra and others**, reported in **2013(1) Bom.C.R.666** as well as ***Shaikh Shafi Ahmed Khadarsab vs State of Maharashtra and others***¹, and submits that the ratio laid down in

¹ 2012(5) Mh.L.J.36;

the said cases is squarely applicable in the facts of this case.

4. The learned Counsel appearing for the respondents vehemently opposed the prayer of the petitioner and submitted that the petition may be dismissed.

5. We have heard the learned Counsel for the parties, perused the grounds taken in the petition, annexures thereto including the impugned order passed by the authority and the judgment of this Court in case of **Shaikh Shafi Ahmed Khadarsab** (supra). This Court while considering the similar fact situation, referring the provisions of Para 26.4 of the Secondary Schools Code in para 12 of the judgment, held thus:

“12. In the present case, the application has been rejected not on merits but only on the technical ground that it had been made after the petitioner had left the school and joined the junior college. In our view, the respondent No.3 Education Officer ought to have considered the application on its own merits and ought not to have rejected it only on the technical ground that the application had been made after the petitioner had left the school. Of course, for ordering any change the respondent No.2 would have to be satisfied about the merits of the case and the *bona fides* of the petitioner.”

6. In the light of the discussion herein above and in particular, the observations of this Court in para 12 of the judgment in case of **Shaikh Shafi Ahmed Khadarsab** (supra), we are of the opinion that the application of the petitioner should not have been rejected only on the ground that the petitioner has left the school. It is open for the authority concerned to consider the application in the light of the provision of Paragraph nos.26.3 and 26.4 of the S.S. Code and give reasons while accepting or rejecting the prayer of the petitioner.

7. In that view of the matter, we set aside the impugned orders order passed by Respondent No.1 - Education Officer (Secondary), Zilla Parishad, Dhule dated 31.10.2014 and so also, the order passed by Respondent No.2 Education Officer (Primary), Zilla Parishad, Jalgaon, dated 12.11.2014, The application of the petitioner is restored to its original file.

8. We direct the Respondents No.1 and 2 to consider the prayer of the Petitioner on its own merits, in the light of the provisions of Para 26.3 and 26.4 of the Secondary Schools Code, within three months from today.

Petition stands disposed of.

[P.R.BORA, J.]

[S.S.SHINDE, J.]