

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3651 OF 2016

Manoj s/o. Chhagan Kambale ..Petitioner

versus

The State of Maharashtra
and ors. ..Respondents

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Mr.P.P.More, advocate for petitioner

Mrs.A.V.Gondhalekar, AGP for respondent no.1 –
State

Mr.B.A.Shinde, advocate for respondent nos.2 and 3

Mrs.Surekha Mahajan, advocate for respondent no.4

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

DATE : APRIL 07, 2016

PER COURT :

Heard learned counsel appearing for the
petitioner; learned AGP appearing for respondent
no.1 – State; learned counsel appearing for
respondent nos.2 and 3; and learned counsel
appearing for respondent no.4. With their able

assistance, perused the pleadings in the petition, annexures thereto and the relevant rules.

2] This petition is filed by the petitioner seeking direction to the respondents/authorities to correct the date of birth of the petitioner as 28th February, 1998 instead of 29th February, 1998, in the school admission register and the other school records.

3] Learned counsel appearing for the petitioner submits that the application filed by the petitioner for correction of the date of birth, came to be rejected on the ground that the petitioner has left the school and joined the junior college.

4] Upon perusal of the communication dated 1st September, 2015, Exhibit-E page 22 of the compilation of the petition, it appears that

respondent no.2 has declined to entertain the application of the petitioner for correction of the date of birth, on the ground that the petitioner has left the school and therefore, the request for correction of date of birth in the school record cannot be considered.

5] The controversy raised in this petition is no longer *res-integra* and answered by the Division Bench of this Court in the case of ***Shaikh Shafi Ahmed Khadarsab Vs. State of Maharashtra and ors., 2012(7) All.M.R. 437.*** Paragraphs 10 and 11 of the said decision reads thus :-

"10. For all these reasons, we hold that the instructions contained in para 26.4 of the S.S. Code that an application for change of an entry in the General Register of a school shall be entertained only on behalf of the pupil who is attending the school meaning there by that it shall not be entertained on behalf of the pupil who has left the

school, are directory and not mandatory. In our view, such an application can be entertained even after the pupil has left the school, provided the application is bona fide and the pupil is able to satisfy that the original entry in the General Register of the school is erroneous. The application can be rejected if the entry is not shown to be erroneous and wrong. It, however, cannot be rejected without it being considered on merits, only on the technical ground that the application has been made after the pupil has left the school.

11. 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 that view of the matter, we grant liberty to the petitioner to file a fresh application to respondent no.3. We direct respondent no.3 to forward such application within two weeks from receipt of the application, to respondent no.2. Respondent no.2 shall, keeping in view the instructions contained in para 26.4 of the S.S. Code and observations made herein above, consider the application on merit and within a period of three weeks from the date of receipt of the application and shall communicate the decision to respondent nos.3 and 4.

7] If the decision of respondent no.2 is favourable to the petitioner, respondent nos.3 and 4 to make corrections in the school record in respect of the date of birth of the petitioner as

expeditiously as possible, however, within a period of two weeks from the date of receipt of communication from respondent no.2. The entire exercise be completed by respondent nos.2 to 4 within a period of ten weeks.

8] We make it clear that respondent no.2 should not reject the application of the petitioner for the same reason which was assigned in the letter dated 1st September, 2015 addressed to respondent no.3 by respondent no.2 i.e. Exhibit-E, page 22 of the petition.

9] We further make it clear that in case, no decision is taken by respondent nos.2 to 4 within the time as directed herein above, the petitioner would be at liberty to revive his prayer to seek direction to the respondents to accept his examination form for 12th standard supplementary examination which is to be held in future.

10] With the above directions, the Writ Petition stands disposed of.

11] Parties to act upon an authenticated copy of this order.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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