

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 4520 OF 2016
WITH WP/4521/2016**

GANESHPRITAM ARUN MARWALE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. G.J. Karne h/f
Mrs.Biradar Meera T.

AGP for Respondent/State : Mr. A.G. Magre

Advocate for Respondent no.2 : Mr. U.S. Mote

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CORAM : S.S. SHINDE & SANGITRAO S. PATIL, JJ.**Dated: June 09, 2016**

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PER COURT :-

Heard the learned counsel appearing
for the parties.

2. It appears that the applications for correction of date of birth in the School record are rejected by the Respondent - Education Officer on the ground that the petitioners have already left the school. In fact on the said ground the Respondent - Education Officer should not have rejected the applications. The Division Bench of 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 reported judgment in the case of **Shaikh Shafi Ahmed Khadarsab vs State of Maharashtra and others**¹, 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."

3 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 applications of the petitioners should not have been rejected only on the ground that the petitioners have left the school.

1 2012(5) Mh.L.J.36;

4. In that view of the matter, the impugned communication dated 16.03.2016 issued by the Education Officer (Secondary), Zilla Parishad, Aurangabad is quashed and set aside. The learned counsel appearing for the petitioners, on instructions, submits that the petitioners will file fresh applications before Respondent No.4 within 10 days from today. Upon receiving such applications, Respondent No.4 shall forward the same to Respondent No.3 within one week thereafter. Upon receiving such applications from Respondent No.4, Respondent No.3 shall take decision on the said applications, as expeditiously as possible, and preferably within three weeks thereafter, keeping in view the Para 26.4 of the Secondary Schools Code and communicate the said decision to all concerned.

5. In case, the decision of Respondent No.3 is favourable to the petitioners, necessary correction in the school record and also record of the Secondary and Higher Secondary Board should be made within four weeks thereafter. We make it clear that Respondent No.3 shall not reject the

applications of the petitioners on the ground that they have already left the school.

6. The Petitions are allowed in the above terms and same stand disposed of.

(SANGITRAO S. PATIL, J.) (S.S. SHINDE, J.)

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