

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD.****WRIT PETITION NO.4630 OF 2016**

Santosh s/o Ramkishan Wakade,
age .. years, occu. Nil,
r/o Dhoksal Tq. Badnapur,
Dist. Jalna. **... PETITIONER.**

Versus

1. The State of Maharashtra,
through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai -32.

2. Education Officer (Primary),
Zilla Parishad,
Jalna. **... RESPONDENTS.**

...

Advocate for Petitioner : Mr.Jadhav Vivek U.
AGP for Respondents/State: Mr.S.P. Deshpande.
Advocate for R.No.2: Mr.Tope Sambhaji S.

...

CORAM: S.S.SHINDE & V.K. JADHAV, JJ.

Dated: JULY 12, 2016.

ORAL JUDGMENT: (PER SHINDE, J)

1. Rule, returnable forthwith. By consent
of the parties, taken up for final hearing.

2. This petition takes exception to the communication dated 6th October, 2015 issued by the Education Officer, Zilla Parishad, Jalna (Primary Section) to the Head Master, Zilla Parishad Primary School, Dhoksal, Taluka Badnapur, District Jalna.

3. The learned Counsel for the petitioner submits that one of the reasons assigned by the Education Officer to reject the proposal is that the petitioner has left the school. In support of his contention that though the candidate has left the school, still the Education Officer can consider the prayer for change of date of birth or caste, he placed reliance on the decision dated 4th September, 2014 in case of **Mr. Manoj Shivappa Sakhare vs. The State of Maharashtra and others in Writ Petition No.7675 of 2014** with connected petitions.

4. On the other hand, the learned Counsel for respondent No.2, relying upon the unreported judgment delivered on 8th October, 2012 by the Division Bench of this Court in **Writ Petition No.3266 of 2012 (Vilas s/o Dattatraya Ransubhe Vs The State of Maharashtra and others)**, submits that if the petitioner is aggrieved, he has remedy to approach the Deputy Director of Education.

5. We have considered the submissions of the learned Counsel for the petitioner as also the respondents. The fact that the proposal was not submitted in Form No.3 as per Rule 26.4 of the Secondary School Code, is not in dispute.

6. In that view of the matter, we quash and set aside the impugned communication and grant liberty to the petitioner to submit the proposal in the appropriate form as mentioned

above, to the Head Master of the concerned School, as expeditiously as possible; however, within two weeks from today. Upon receiving such proposal, the concerned Head Master to submit the same along with his recommendation / remark to the Block Education Officer, within three weeks thereafter. The Block Education Officer, after considering the said proposal, shall forward it to the Education Officer. The Education Officer concerned to take decision on the said proposal, as expeditiously as possible; however, within three weeks after receipt of the said proposal, without raising the ground that the petitioner has left the school and therefore, request for change in record cannot be considered. However, we make it clear that it is for the respondent No.2 to consider the proposal on its own merits, after verifying the documents on record. We have not expressed any opinion on

merits of the matter.

7. The writ petition is disposed of on the above terms. Rule is made absolute accordingly. No order as to costs.

(V.K. JADHAV, J) (S.S. SHINDE, J)

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