

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

WRIT PETITION NO. 7966 OF 2014

Sanket s/o Janardhan Paighan
age 24 years, occ. Service
r/o Ambika Housing Society,
Pathardi Road, Shevgaon
Dist. Ahmednagar

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through Secretary,
Department of Higher &
Technical Education,
Mantralaya, Mumbai 32.
2. Education Officer (Secondary)
Zilla Parishad,
Ahmednagar.
3. Maharashtra State Board of Secondary
And Higher Secondary Education,
Pune.
4. Zilla Parishad Primary School
Shastrinagar, Shevgaon
Dist. Ahmednagar
Through its Head Master.

.. RESPONDENTS

Mr. S.V. Natu, advocate for petitioner.
Mr. S.B. Pulkundwar, AGP for the State.
Mr. D.V. Soman, advocate for respondent no. 3.
Mr. S.T. Shelke, advocate for respondent no.4.

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**CORAM : R.M. BORDE &
A.I.S. CHEEMA, JJ.
DATE : 12th JANUARY, 2016.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the

parties, petition is taken up for final disposal at admission stage.

3. Proposal tendered to the Education Officer for effecting changes in the date of birth has been turned down by the Education Officer in view of paragraph 26.4 of the Secondary School Code. It is observed in the impugned order by the Education Officer that since the pupil has left the school, the application cannot be entertained. The order passed by the Education Officer is contrary to the law laid down by the Apex Court in the matter of Shaikh Shafi Ahmed Khadarsab Vs. State of Maharashtra reported in **2013(1) Bom.C.R.** as well as in the matter of Vilas Dattatraya Ransubhe Vs. State of Maharashtra and others reported in **2013(1) Bom.C.R. 666** the Division Bench has observed in paragraph 11 of the judgment as below :

11. 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 thereby 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.

It is also observed in the aforesaid judgment that on fulfillment of the requirements laid down under Appendix Six of the Secondary School Code, 2006, the application tendered for effecting change in the entry recorded in

the school record can be entertained. In this view of the matter, order passed by the Education Officer on 05.07.2014 impugned in this petition is quashed and set aside and the Education Officer is directed to take decision on the application on its own merit and in accordance with the provisions of law. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE

dyb