

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

WRIT PETITION NO. 11884 OF 2015

Gopal S/o Dnyandeo Mulay
Age : 21 years, Occ : Nil,
R/o Chitali Station Post Rahata,
Taluka – Rahata, Dist. Ahmednagar.

..PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary,
School Education Department,
Mantralaya, Mumbai – 32.
2. The Deputy Director of Education,
Pune-1, Pune.
3. The Education Officer (Primary),
Zilla Parishad, Ahmednagar
Dist. Ahmednagar.
4. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
Dist. Ahmednagar.
5. Headmaster,
Zilla Parishad Primary School,
Chitali Station, Tq. Rahata,
Dist. Ahmednagar.
6. Headmaster,
New English High School,
Chitali Station, Tq. Rahata,
Dist. Ahmednagar.
7. Principal,
New English School and College,
Chitali Station,
Taluka Rahata, Dist. Ahmednagar.

...RESPONDENTS

Mr. G.J. Pahilwan, Advocate for Petitioner
Mr. S.D. Kaldade, AGP for Respondent/State
Mr. S.T. Shelke, Advocate for Respondent Nos. 3 and 5.
Mr. V.D. Sapkal, Advocate for Respondent Nos. 6 and 7.

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

DATE : 11th February, 2016

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.2 dated 9th May, 2012 and is seeking direction to the Respondent Nos.2 to 8 to issue the leaving certificate with corrected date of birth as 30th October, 1994.

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 others¹, and submits that the ratio laid down in 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

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

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 order passed by Respondent No.2 dated 9th May, 2012. The application of the petitioner is restored to its original file.

8. We direct the Respondents Nos.2 to 4 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.]