

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5065 OF 2016

Yash s/o Satish Rathod,
Age : 20 years, Occu. Student,
R/o Hiralal Chowk, Beed,
District Beed

PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
Education Department,
Mantralaya, Mumbai
2. The Education Officer (Secondary),
Zilla Parishad, Beed
3. The Principal,
Nandigram Secondary and Higher
Secondary School, Nandur (Ghat),
Tq. Kaij, District Beed

RESPONDENTS

Mr. Sudhir G. Bhalerao, Advocate for the Petitioner
Mr. A.S. Shinde, A.G.P. for respondent Nos. 1 and 2
Mr. N.L. Jadhav, Advocate for respondent No. 3

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATE : 13th FEBRUARY, 2017

ORAL JUDGMENT (PER : T.V. NALAWADE, J.) :

Rule, made returnable forthwith. With the
consent of the learned counsel for the parties and the
learned A.G.P., heard finally.

2. The petition is filed to challenge the order dated 30th December, 2015, passed by respondent No. 2 – the Education Officer, Zilla Parishad, Beed, on an application submitted by the petitioner to change his caste mentioned in the caste certificate as Thakur Scheduled Tribe in the school record. The said application is rejected by the Education Officer by observing that since the petitioner has already left the school, such change cannot be made in view of the provisions of the Secondary Schools Code, 2006. In this regard, the learned counsel for the petitioner placed reliance on the decision delivered by the Division Bench of this Court in ***Writ Petition No. 1138 of 2009 (Shaikh Shafi Ahmed Khadarsab Vs. The State of Maharashtra and others)***, decided on 13th March, 2012.

3. This Court, in the case of ***Shaikh Shafi Ahmed Khadarsab*** (supra), has interpreted Rule 26.4 of the Secondary Schools Code, 2006 and observed that the provision is not mandatory in nature and the application for change of the caste in the school record can be considered on its own merits. The Court has avoided to

touch the matter in respect of entitlement regarding genuineness of the claim. The matter was remanded back by the Court to the respondents for consideration of the application of the petitioner therein on its own merits. In the present Writ Petition, the facts being identical to that of **Shaikh Shafi Ahmed Khadarsab** (supra), similar directions need to be issued to the respondents.

4. In the result, the order dated 30th December, 2015, passed by respondent No. 2 – the Education Officer, Zilla Parishad, Beed, is hereby quashed and set aside. Respondent No. 2 is directed to decide the application of the petitioner afresh on its own merits. Rule is made absolute in those terms. The Writ Petition is disposed of. No costs.

[**SANGITRAO S. PATIL**]
JUDGE

[**T.V. NALAWADE**]
JUDGE