

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6514 OF 2016

Syed Jaweed Ali s/o Syed Riaz Ali,
Age : 27 years, Occu. Education,
R/o Rajiv Nagar, Jagirdar Colony,
Aurangabad, Tq. & Dist. Aurangabad

PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
Education Department,
Mantralaya, Mumbai
2. The Education Officer (Primary),
Zilla Parishad, Aurangabad
3. The Head Master,
Moin-ul-Uloom Primary School,
Aurangabad, Tq. & Dist. Aurangabad
4. The District Deputy Registrar,
Cooperative Societies,
Aurangabad, Tq. & Dist. Aurangabad

RESPONDENTS

Mr. H.I. Pathan, Advocate for the Petitioner
Mr. A.S. Shinde, A.G.P. for respondent Nos. 1 and 4
Mr. A.D. Aghav, Advocate for respondent No. 2

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

DATE : 14th FEBRUARY, 2017

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

Rule, returnable forthwith. With the consent

of the learned counsel for the parties and the learned A.G.P., heard finally.

2. By this petition, the petitioner is seeking direction to respondent No. 2 – Education Officer (Primary) and the Institution to correct his date of birth recorded in the school in accordance with the birth certificate.

3. It appears that the Education Officer informed to the petitioner that such correction was not possible as he had left the school when such correction in the school record was sought by him.

4. The learned counsel for respondent No. 2 took this Court through the provisions of Rule 26.4 of the Secondary Schools Code, 2006 and submitted that there is bar under the said provision for making such correction as the petitioner is not studying in the same school.

5. The learned counsel for the petitioner placed reliance on the decision in the case of **Vilas s/o Dattatraya Ransubhe Vs. The State of Maharashtra and others 2013 (1) ALL MR 89**. In the said case, the

Division Bench of this Court has discussed the aforesaid provision and held that the provision is not mandatory in nature and the application cannot be rejected only on that ground and it needs to be considered on its own merit.

6. Today, as per the directions issued by this Court, the learned counsel for the petitioner produced before this Court the original birth certificate of the petitioner for perusal, issued by the Aurangabad Municipal Corporation. The said certificate shows the date of birth of the petitioner as 26th August, 1989, though the birth certificate was issued on 2nd May, 1990. It appears that the said date 2nd May, 1990 was the date of issuance of the birth certificate. In the circumstances, the decision needs to be taken by the authority – Education Officer (Primary) on the application of the petitioner for correction in the school record on its own merit. After perusal of the above referred original birth certificate, it is returned to the learned counsel for the petitioner.

7. In the result, the impugned order passed by the

Education Officer (Primary), Zilla Parishad, Aurangabad is hereby set aside. The petitioner is directed to appear before the Education Officer (Primary) on 3rd March, 2017. The Education Officer (Primary) shall take decision with regard to correction in the date of birth of the petitioner within one month thereafter. Rule is made absolute accordingly. The Writ Petition is disposed of. No costs.

[SANGITRAO S. PATIL]
JUDGE

[T.V. NALAWADE]
JUDGE

npj/wp6514-2016