

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

WRIT PETITION NO.2282 OF 2018

Ravi S/o Vitthal Sulane
Age : 29 years, Occ : Student,
R/o Shrikrushna Nagar,
Beed Bye-Pass Road,
Devlai Parisar, Aurangabad,
Tq. and Dist. Aurangabad.

PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Director of Education,
Maharashtra State, Pune-1.
2. The Director of Education,
Maharashtra State, Aurangabad.
3. The Education Officer (Primary),
Zilla Parishad, Beed.
4. The Head Master,
Yogeshwari Nutan Vidyalay
Primary School, Ambajogai,
Tq. Ambajogai, Dist. Beed.

RESPONDENTS

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Mr.A.R. Tapse holding for Mr.P.D. Suryawanshi,
Advocate for the Petitioner
Mr.S.B. Narwade, AGP for Respondent Nos.1 and 2.
Mr. R.J. Nirmal, Advocate for Respondent No.3
Mr. M.M. Patil (Beedkar), Advocate for Respondent
No.4.

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**CORAM: S.S.SHINDE &
K.K. SONAWANE, JJ.**

DATE : 26.11.2018

ORDER (Per S.S.Shinde, J.):

1. Heard.

2. This Petition is filed with the following substantive prayer :-

"B. By issuing writ of certiorari, orders, directions in the like nature, the impugned order dated 5.10.2015 issued by respondent no.3 may please be quashed and set aside."

3. It is the case of the petitioner that the petitioner has completed his degree of Commerce, and at present he is making preparation for appearing the examination of Maharashtra Public Service Commission. The petitioner belongs to Rajput Bhamta caste, however inadvertently, while mentioning his caste in school record, it is mentioned as "Thakur". It is the case of the petitioner

that the father of the petitioner made application on 22nd July, 2015 to Respondent No.3, requesting to correct the caste as "Rajput Bhamta" in the school record of the petitioner instead of "Thakur".

4. It is the case of the petitioner that Respondent No.3 vide its letter dated 5th August, 2015, communicated to the petitioner that the proposal for change in caste in the school record should be forwarded by the school in the prescribed format along with the required documents. Thereafter, the proposal for change in the caste column in school record of the petitioner has been forwarded by Respondent No.4 vide its letter dated 28th March, 2015 to Respondent No.3. Respondent No.3 on 5th October, 2015 has rejected the said proposal on the ground that petitioner has left the school, and hence

necessary correction in the caste column of the petitioner cannot be made. Hence this Writ Petition.

5. Learned counsel appearing for the petitioner submits that Respondent No.3 has rejected the said proposal for correction of caste in the school record of the petitioner only on the ground that the petitioner has already left the school. According to learned counsel appearing for the petitioner, the said proposal should not have been rejected simply on the ground that the petitioner has left the school. In support of his contention, learned counsel places reliance on the judgment of this Court in case of ***Shaikh Shafi Ahmed Khadarsab vs State of Maharashtra and others***¹, and submits that the ratio laid down in the said case is squarely applicable in the facts of this case.

¹ 2012(5) Mh.L.J.36;

3. Learned Counsel appearing for the respondents vehemently opposed the prayer of the petitioner and submitted that the petition may be dismissed.

4 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 change the respondent No.2 would have to be satisfied about the merits of the case and the *bona fides* of the petitioner."

5. In the light of 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 proposal submitted by the Respondent No.4 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 said proposal in the light of the

provision of Para 26.4 of the Secondary School Code and give reasons while accepting or rejecting the prayer of the petitioner.

6. In that view of the matter, the impugned communication/order dated 5th October, 2015 at Exh.D - page 18 of the compilation of petition is set aside. The proposal of the Respondent No.4 is restored to its original file. In case, the proposal is sent back to Respondent No.4 - Management, Respondent No.4 is directed to send the proposal to Respondent No.3 within two weeks from receipt of this order. The respondent No.3 - Education Officer is directed to decide the said proposal afresh adhering to the procedure as laid down in Appendix VI read with Rule 26.4 of the Secondary School Code, on its own merits, as expeditiously as possible; however, within a period of three

months from today. The said proposal shall not be rejected only on the ground that it is submitted after the petitioner has left the school.

7. With the above observation, the Petition stands disposed of, accordingly.

(K.K. SONAWANE, J)

(S.S.SHINDE, J)

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