

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2905 OF 2017

Sunil S/o Dhondiram Batule ..PETITIONER

VERSUS

The State of Maharashtra
& others ..RESPONDENTS

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Mr.A.N. Nagargoje, advocate for the petitioner.

Mr.S.K. Tambe, AGP for the respondent/State.

Mr.S.S. Jadhavar, advocate for the respondent
no.9

Ms. Surekha P. Mahajan, advocate for the
respondent nos.10 and 11.

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CORAM : DIPANKAR DATTA, CJ
AND
MANGESH S. PATIL, J.

DATE : OCTOBER 01, 2021

PC :

1. Petitioner applied before the Education Officer (Secondary), Osmanabad seeking correction of the spelling of the first name of his father in a certificate. Such application has been rejected by the Education Officer by an order dated 6th March, 2017. English translation of the said order, as produced by the learned advocate for the petitioner and to which none of the learned advocates for the respondents has taken objection, reads as follows :-

"With reference to above subject you are hereby informed that as per Rule 26(4) of Secondary School Code the correction of proposal is permissible of those students who are presently taking the education in the school under the control of Education Officer. Hence the Original Proposal of Sunil Dhondiram Batule is being forwarded to you".

2. It would appear from the aforesaid extract that the Education officer was of the impression that since the petitioner had left school, his application for change was not maintainable in terms of rule 26(4) of the Secondary School Code.

3. Our attention has been drawn to the Full Bench decision of this Court in **Writ Petition No.8085 of 2017 (Janabai D/o Himmatrao Thakur V/s The State of Maharashtra and others)**, wherein the relevant provision has been interpreted and law has been laid down that an application could even be entertained after the student has left the school but in exceptional circumstances.

4. In such view of the matter, we are of the considered opinion that the Education Officer was labouring under a misconception that the application of the petitioner, *ex facie*, was not

maintainable on the ground that the petitioner had left the school. Even after leaving the school, an application for change can be made by a student but, obviously, whether exceptional circumstances exist so far as the present case is concerned, has to be examined and determined by the Education Officer in the light of the decision in **Janabai (supra)**.

5. Accordingly, the impugned order stands set aside. The application before the Education Officer would stand revived by reason of this order. Whether or not the application should be granted, has to be considered by the Education Officer and decided after granting the petitioner as well as the concerned school reasonable opportunity of hearing.

6. Since the application of the petitioner has been returned by the Education Officer to the school, the school shall immediately but not later than 7 days of receipt of a copy of this order, re-forward the application to the Education Officer. The above exercise of consideration and disposal shall be completed as early as possible but preferably within 8 (eight) weeks from the date of receipt of the application from the school.

7. In the event, the petitioner's prayer is

found to be acceptable, the Education Officer shall initiate appropriate measures for effecting necessary correction in the concerned certificate. On the contrary, if the petitioner's application fails, a reasoned order shall be passed and communicated to him.

8. The writ petition stands allowed to the extent as aforesaid. No costs.

[MANGESH S. PATIL,J.]

[CHIEF JUSTICE]

SGA