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

917 REVIEW APPLICATION (CIVIL) NO.108 OF 2021
IN WP/7437/2020

SAKSHI SANJAY AWARE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr A. D. Hande, Advocate h/f Mr D. R. Adhav, Advocate for
applicant;

Mr S. R. Yadav, A.G.P. for respondent No.1;

Mr V. R. Sonwalkar, Advocate for respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 3rd December, 2021

PER COURT:

1. By this review application, the applicant/original petitioner prays for reviewing the order dated 04/10/2021, passed by this Court, vide which, her Writ Petition No.7437/2020 was dismissed and the prayer for correcting the date of birth, based on a certificate issued by the Gramsevak, was turned down.

2. The learned Advocate for the applicant has now placed before us an order passed by the learned JMFC, dated 11/04/2019 in Criminal M.A. No.102/2019, permitting the correction of date of birth of the petitioner as well as of her brother.

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The ground on which the application is allowed by the learned J.M.F.C. is that the Gramsevak, who was a respondent, did not appear before the Court and the applicant had produced a School Leaving Certificate of the daughter and the son, siblings.

3. In the order dated 04/10/2021 that was passed by this Court, it was noticed in paragraph Nos.2 to 6 as under :-

“2. It is the specific contention of the petitioner that her correct date of birth is 23.08.2002. She supports her contention by relying upon the first entry in the school document. She joined the Zilla Parishad Primary School, Bokud Jalgaon, Taluka Paithan on 16.06.2008 in the first standard. Her date of birth is correctly mentioned. She then sought admission in the 6th standard in the Zilla Parishad School at Patode Vadgaon, Taluka Paithan on 21.06.2013 and her date of birth is correctly mentioned as 23.08.2002. She then joined Sudarshan Primary School, Bidkin in the 8th standard on 23.06.2015 and her date of birth initially was recorded as 27.04.2002. She then joined Ujwalatai Pawar Secondary School, Aurangabad, on 15.06.2016 in the 10th standard and her date of birth is once again wrongly recorded as 27.04.2002.

3. The Sudarshan School had wrongly entered the date of birth as 27.04.2002 and after realizing their mistake, they issued the communication dated 03.08.2018 to the Headmaster of the Ujwalatai Pawar School stating that the correct date of birth is 23.08.2002. By order dated 20.12.2019, the Education Officer (Secondary), Zilla Parishad, Aurangabad was convinced that the correct date of birth is 23.08.2002.

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4. The grievance of the petitioner is that when she appeared for SSC examination in March, 2018, the mistake committed by Sudarshan School was repeated in the SSC certificate and the date of birth was wrongly mentioned as 27.04.2002. The petitioner has scored 97.40% marks in her 10th standard. Ujwalatai Pawar Secondary School approached the SSC Board at Aurangabad through its representation dated 01.04.2019 requesting for correction in the date of birth. We find that the said school has nowhere mentioned the correct date of birth and incorrect date of birth in the said representation. By the impugned order dated 11.03.2020, respondent No.2/ Board at Aurangabad declined to carryout correction on the ground that the said school had itself unofficially corrected the date of birth in its admission register by indulging in interpolation.

5. Having considered the impugned order passed by respondent No.2/ Board, it is apparent that the Ujwalatai Pawar School has indulged in interpolation and scored out the date of birth 27.04.2002 and inserted 23.08.2002. The Sudarshan School has also carried the date of birth as 27.04.2002. We called upon the learned advocate for the petitioner to inform us as to what was the basis of entering the date of birth as 23.08.2002 when the petitioner acquired admission in the first standard on 16.06.2008. It is stated that the petitioner has no record to this effect. In the absence of any statutory record, in our view, the Education Officer (Secondary) has acted highhandedly. There is no application of mind. He has casually and mechanically corrected the date of birth of the petitioner.

6. We find that respondent No.2/ Board has rightly taken the stand that the date of birth cannot be corrected because they find manipulations and interpolations in the school certificates. The petitioner is unable to show any statutory document, which can indicate the date of birth of the petitioner having been registered immediately after

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her birth, as 23.08.2002. A freshly obtained birth certificate dated 30.04.2019 issued by the Gram Sevak, Bokud Jalgaon, Taluka Paithan is produced before us indicating the date of birth as 23.08.2002. The birth of the petitioner is registered on 30.04.2019 and the birth certificate is issued on 19.05.2019 after 17 years of the birth of the petitioner.”

4. The learned Full Bench of this Court has delivered a Judgment in the matter of **Janabai Himmatrao Thakur Vs. The State of Maharashtra & others, 2019(6) Mh.L.J. 769**, specifically dealing with the scope and ambit of correcting the date of birth or the caste of a candidate, in the school record. It has been specifically recorded in paragraph 39, as under :

“39. This being the position, we answer Question Nos. (A) & (C) in the following terms :

(a) An application for alteration in the entries in the General Register is permissible, with the previous permission of the appropriate authority at any time when the pupil is attending the school.

(b) No application for alteration in the figure of date of birth is permissible, after the student has left secondary school, except correction in the nature of 'obvious mistakes' as indicated in Clause 26.3 i.e. of a nature where the date of a particular month which does not exist in the calendar and likewise.

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(c) Thus, in light of the above, an application for change in the name, surname or caste, either due to reasons/cause unnoticed before or even occurring subsequently, being errors which fall within the category of 'obvious mistakes', can be made, even after the student has left school in light of the language of Clause 26.3 in the manner as indicated by Appendix Six in the forms as prescribed in the S.S. Code.

(d) For the purposes like admission to another educational institution, in cases of obvious mistakes as prescribed in Clause 26.4, a change/correction in the school leaving certificate, so as to make the entry consistent with the corresponding entries in the General Register of the School is permissible, which in fact is in consonance with (c) above.”

5. It is contended that the parents of the petitioner are illiterate agriculturists. As such, it was the petitioner, who filled in her S.S.C. examination form and thereafter, filled in her further admissions forms for pursuing further education. In all these forms, she has written her date of birth as ‘27/04/2002’. She desires that her date of birth may be shown ‘23/08/2002’, a difference of about four months. The difference may not be large, however, the law laid down by the learned Full Bench of this Court is that the incorrect date of birth must be noticed as a mistake and immediately after realizing such mistake, a correction

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may be sought. When the petitioner herself believed that her date of birth is '27/04/2002 and she recorded the same in her admission forms while pursuing further education, it cannot be said that she did not notice the mistake.

6. In view of the above, we do not find that the applicant has made out an error apparent on the face of the order.

7. The review application is rejected.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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