

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

WRIT PETITION NO. 1254 OF 2021

Achari Abhijeet Mohanan
Age; 21 years, Occ; Education,
R/o; Plot No. 1, Ashwini Bhawan,
Near Nandanwan Colony,
Chawani Aurangabad,
Taluka & Dist. Aurangabad.

...PETITIONER

V E R S U S

1. The State of Maharashtra,
Through Secretary, Education Department
Mantralaya, Mumbai-32.
2. Divisional Secretary,
Secondary and Higher Secondary
Education Pune Divisional Board
Osmanpura,
Station Road, Aurangabad.
3. Education Officer (Secondary)
Zilla Parishad Aurangabad.
4. Head Master,
Little Flower High School,
Chawani, Aurangabad.
5. Principal
Vidyadham Science Junior College
Saraswati Bhawan Colony,
Aurangpura, Aurangabad.

...RESPONDENTS

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Advocate for the petitioner : Mr. C.V.Thombre
AGP for the Respondent Nos.1 & 3-State : Miss.R.P.Gaur
Advocate for Respondent No. 2 : Mr. Umesh S. Mote
Advocate for Respondent No. 4 : Mr. Vikram S. Kadam
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**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 07.09.2022

JUDGMENT : [PER : SANDEEP V. MARNE, J.]

1. Rule. Rule is made returnable forthwith. With the consent of the learned Advocates for the respective parties, heard finally at the stage of admission.

2. The petitioner seeks correction in his surname in the Mark Sheet and Passing Certificate issued by the Maharashtra State Board of Secondary and Higher Secondary Education, Aurangabad (hereinafter referred to as the 'Board'). Such correction sought in pursuance of the correction made in the School records by the Education Officer vide order dated 28.10.2019. By the impugned communication dated 10.12.2020, the Board has rejected the request on the ground that the entry in the school record has been changed after the student had left the school by way of overwriting in the admission register. It is further submitted that as per Rule 59 (3) of the Maharashtra Secondary and Higher Secondary Education Boards Regulations, 1977 (hereinafter

referred to as 'Regulation 1977') a provision exist to correct the entry by the Board, so as to match the entry originally made in the school records. It is further submitted that since the change is effected by the Head Master in the admission register after leaving the school, same cannot be considered for effecting the change in the Mark Sheet and the Certificate. The decision of the Board vide communication dated 10.12.2020 is the subject matter of challenge in the present petition.

3. So far as, the change of entries in the School records is concerned, the same is governed by the provisions of Clause 26 of the Secondary Schools Code (hereinafter referred to as 'S.S.Code'). The law relating to change of entries in the School record has now been settled by way of decision of Full Bench of this Court in **Janabai d/o Himmatrao Thakur Vs. State of Maharashtra and Others 2019 (6) Mh. L.J. 769**. The paragraph No. 39 is reproduced 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.

(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."

4. Thus, it is permissible to affect the correction of entries in school records after the student has left the school which are in the nature of "obvious mistakes" under Clause 26 (3) of the S.S. Code.

5. In his School record, petitioner's name was recorded as 'Abhijeet Mohanan P.'. It is his case that his correct name is 'Abhijeet Mohanan Achari'. The name of the petitioner's father is 'Mohanan Pappu Achari'. 'Pappu' is the name of his grandfather. Thus, the family surname is 'Achari'. It is the petitioner's case that while registering his name in the School records, initial 'P' representing 'Pappu' which is his grand father's name, came to be erroneously registered in the register in the place of family Surname 'Achari'.

6. On an application being made by the petitioner for the correction of his name in the School records from 'Achari Mohanan P.'

to 'Achari Mohanan Abhijeet', A proposal was forwarded by the School to the Education Officer (Secondary), Zilla Parishad, Aurangabad on 23.09.2020. The Education Officer was pleased to pass order dated 28.10.2020 permitting alteration of the petitioner's name from 'Abhijeet Moahnan P.' to 'Achari Abhijeet Mohanan' in the School records. Accordingly, transfer certificate was issued by Vidyadham Science Jr. College, Aurangabad reflecting the petitioner's name as 'Achari Abhijeet Mohanan'.

7. On account of alteration of name in the School records, there was difference in the name of the petitioner in the School records and in the Mark Sheet and the Certificate issued by the Board. Therefore, a proposal was submitted through the College on 03.11.2020 for effecting the change in the petitioner's name in the Mark Sheet and the Certificate issued by the Board. The proposal was forwarded by the Deputy Director of Education, Aurangabad to the Board on 03.11.2020. However, by the impugned communication dated 10.12.2020 the Board has turned down the said proposal for the reasons as aforesaid.

8. After going through the reasons recorded in the communication dated 10.12.2020, we find that all of them are erroneous. The first reason is that there is overwriting in the admission register which is effected after the petitioner left the School. This is absolutely erroneous. The Board has failed to take into consideration

the factum of change of entry relating to the name in School record being effected as a result of order of the Education Officer dated 28.10.2020. Correction of name effected in the School Register in pursuance of the order passed by the Education Officer cannot be branded as overwriting. We therefore reject this reason.

9. Now coming to the second reason of the provisions of Rule 59 (3) of the Regulations 1977, we find that there is no absolute prohibition in the said Rule for effecting change in the name of the candidate. Mr. Mote, the learned Advocate appearing for respondent No. 2 Board has drawn our attention to the provisions of Rule 59 (3) of the Regulations 1977. Rule 59 (3) is reproduced as under :

"59. AWARD OF CERTIFICATES

(3) In the event of an error being discovered in the entry of the name or the date of a birth in the application of a candidate for admission to the examination and consequently ,in the statement of marks or the certificate" an application for correction of such error shall be admitted only when the name or the date of birth so recorded is not identical with the name or the date of birth of the successful candidate originally entered in the school register or in the service record in the case of a full-time teacher. An application for correction of such error shall be made through head of the secondary school presenting the candidate for the examination in such form as may be prescribed by the Divisional Board. Such correction, when made by the Divisional Board, shall be indicated on the reverse "in the statement of marks or the certificate" by an endorsement in such form as may be prescribed by the State Board."

10. Perusal of Sub Rule 3 of Rule 59 would show that the same contains an enabling provision for correction entry of name in the statement of marks and the certificate in the eventuality of such entry not being identical with the original entry in the School register. Thus, in the event of mismatch between the entry of name in the School register and in the Mark Sheet/Certificate of Board, the same can be corrected. In the present case, on account of order of the Education Officer dated 28.10.2020, change in the entry of the name of the School record has been effected. On account of such change, there is mismatch between the entry of name in School records and in the Mark Sheet/ Certificate of the Board. Rule 59 (3) in fact enables the Board to match the entry of Mark Sheet and the Certificate with that of the School records. Thus, far from preventing the correction or entry in the name, Rule 59 (3) in fact enables the Board to effect such a change. We therefore, find that reliance on the provisions of Rule 59 (3) by the Board is totally erroneous.

11. Coming to the last reason of permissibility of change of entry effected by the headmaster after Petitioner had left the School, we find this reason also erroneous. Again, while recording this reason the Board has conveniently ignored the fact that the headmaster has effected the change in the admission register, in pursuance of the order passed by the Education Officer. The Education Officer has necessary jurisdiction, power and authority under the provisions of S.S.Code, to permit effecting of such changes. However, it appears that

the Board has erroneously assumed that the headmaster has unauthorisedly effected change in the admission register. This is far from the truth. Therefore, the last reason is also unsustainable.

12. As a matter of fact, the jurisdiction for effecting change of entry in the School records is vested with the Education Officer alone. The Board is not vested with any jurisdiction to effect the change of entry in the School records. All that is provided for under rule 59 (3) of the Regulation 1977 is the enabling provisions to match the entry in the Mark Sheet and the Certificate issued by the Board with that of the School records.

13. Once the entry in the School record is lawfully altered by way of the order passed by the Education Officer under the provisions of S.S.Code, it is the bounden duty of the Board to effect a similar change in the Mark Sheet and the Certificate issued by it under the provisions of Rule 59 (3) of the Regulation 1977.

14. Rather than effecting a change of entry of name of the petitioner in the Mark Sheet and the Certificate pursuant to the change effected in the School records by way of order passed by the Education Officer, the Board has unnecessarily driven the petitioner to this Court. The impugned communication further shows that the Board has called for an explanation from the Education Officer for sending the petitioner's proposal. We fail to understand the propriety on the part of

the Board in doing so. The Board itself has failed in performing its statutory duty under Rule 59 (3) and wants to take Education Officer to the task for sending lawful proposal to it. This is like putting a premium on illegality. We deprecate this action of the Board.

15. In the result, the impugned communication dated 10.12.2020 is set aside. Respondent No. 2 Board is directed to forthwith effect change in the entry of name on Mark Sheet and the Certificate of the petitioner as 'Achari Abhijeet Mohanan' and issue corrected Mark Sheet and the Certificate within a period of four weeks from today.

16. The Writ Petition is allowed in the above terms.

17. Rule is made absolute.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE