

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

WRIT PETITION NO.11254 OF 2021

1. Bushra Begum D/o Mohammad Shahed
Age: 29 years, Occu: Education,
R/o: Dargah Road, Parbhani,
Taluka and District: Parbhani ... Petitioner

Versus

1. State of Maharashtra,
Through its Secretary,
School Education and Sports Department,
Mantralaya, Mumbai.
2. The Education Officer Primary,
Zilla Parishad, Parbhani.
3. Dr. Zakir Hussain
Primary School,
Khadrabad Plot, Parbhani,
Taluka and District: Parbhani
4. Dr. Zakir Hussain
High School,
Khadrabad Plot, Parbhani,
Taluka and District: Parbhani ... Respondents

...

Mr. G. R. Syed, Advocate for Petitioner
Mr. P. G. Borade, AGP for Respondent No.1
Mr. B. A. Shinde, Advocate for Respondent Nos.2 to 4

...

**CORAM : C. V. BHADANG &
N. B. SURYAWANSHI JJ.**

DATE : 20 JUNE, 2022

ORAL JUDGMENT : -

Rule made returnable forthwith. The learned Assistant Government Pleader waives service for Respondent No.1 and Mr. B. A. Shinde, the learned counsel waives service for Respondent Nos.2 to 4. Heard finally by consent of parties.

2. By this petition, the Petitioner is challenging the communication dated 20.07.2021 issued by the Respondent No.2/ Education Officer, Zilla Parishad, Parbhani, thereby refusing to entertain an application for correction of the school record, pertaining to the caste of the petitioner on the ground that the petitioner has ceased to be in the concerned school and therefore, as per Rule No.26.4 of the Secondary Schools Code (Code, for short), the school records cannot be corrected.

3. We have heard the learned counsel for the respective parties.

4. The learned counsel for the Petitioner, has placed reliance on the Full Bench decision of this Court, in **Janabai d/o Himmatrao Thakur Vs. State of Maharashtra and Others** reported in **2019(6) Mh.L.J.** The Full Bench has recorded its conclusion in Para – 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 Registrar 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.”

. It can thus be seen that as per Para-39(c), the Full Bench has *inter alia* found that 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 corrected even after the student has left the school.

5. Although the learned counsel for the Respondent No.2/Education Officer, has tried to support the impugned order on the ground that the Petitioner had not produced any documents in support of the claim for change of the school record pertaining to the caste of the petitioner, we find that the application made by the Petitioner has been rejected on the solitary ground based on Rule No.26.4 of the secondary school, which is not permissible.

6. In such circumstances, we find that it would be appropriate for the Respondent No.2/Education Officer to reconsider the application/claim in the light of the law laid down by this Court in Janabai d/o Himmatrao Thakur Vs. State of Maharashtra & Ors. (*Supra*).

7. In the result, the petition is partly allowed. The impugned communication dated 20.07.2021, is hereby set aside. The Respondent No.2/Education Officer shall consider the application filed by the Petitioner for correction of the school record in the light

of the law laid down by this Court in Janabai d/o Himmatrao Thakur Vs. State of Maharashtra & Ors. (*Supra*). It will be open to the Respondent No.2/Education Officer to permit the Petitioner to produce documents as may be advised/necessary.

8. Rule is made absolute in the aforesaid terms.

N. B. SURYAWANSHI, J.

C. V. BHADANG, J.

Sameer