

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

WRIT PETITION NO.14682 OF 2021

Ku. Dhanashree Ravindra Thokle,
Age; 17 years, Occ; Education,
R/o; Plot No. 32, Gut No. 213,
Ramchandra Nagar, Deolai Road,
Satara Parisar Aurangabad.
Through natural guardian,
Shri Ravidra Tukaram Thokle,
Age; 40 years, Occ; Agril,
R/o; As above.

...PETITIONER

V E R S U S

The Divisional Secretary,
M.S.Board of Secondary, &
Higher Secondary Education,
Aurangabad Divisional Board,
Station Road, Usmanpura,
Aurangabad.

...RESPONDENT

.....
Shri Shrimant Mundhe, learned Advocate for the petitioners
Shri Vilas R. Sonvalkar, Advocate for Respondent
.....

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 19.09.2022

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

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

of admission.

3. By this petition filed under Article 226 of the Constitution the petitioner challenges the order dated 13.12.2021 passed by Maharashtra State Board of Secondary and Higher Secondary Education, Aurangabad Divisional Board (hereinafter referred to as the "Board"), refusing to correct the name of petitioner's mother in the records of the board.

4. The name of the petitioner's mother was erroneously recorded as 'Radhika' in place of 'Anuradha' in the School records. Upon an application made by the petitioner, the Education Officer passed an order dated 11.11.2021 correcting the her name from 'Radhika' to 'Anuradha' and consequently a correction was effected in the School records. A proposal was sent to the Board for effecting the similar change in the Passing Certificate issued by the Board. The Board has rejected the proposal on the ground that the entries in the School Register were unauthorisedly altered after the petitioner had left the School. On that ground the Board has refused to correct the name of the petitioner's mother in the Passing Certificate.

5. The issue involved in the present petition is no more *res integra* and is covered by the judgment dated 07.09.2022 passed in **Achari Abhijeet Mohanan** in Writ Petition No. 1254 of 2021 decided on 07.08.2022, paragraph Nos. 10 to 15 are whereof are reproduced as under :

"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."

6. Consequently, the present petition is allowed. The decision of the Board dated 13.12.2.2021 is set aside. The Board is directed to correct the entry relating to the name of the petitioner's mother as 'Anuradha' in his Mark Sheet and Passing Certificate within a period of four weeks from today.

7. Rule is made absolute.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE

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