

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

WRIT PETITION NO. 702 OF 2023

ANJALI VASANTRAO DANDGE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. Gaikwad Amol Ratan

AGP for Respondent No.1 and 3 : Mr. A.A. Jagatkar

Advocate for Respondent No.2 : Ms. Surekha Mahajan

Advocate for Respondent No.7 : Mr. V.U. Pawar h/f Mr. S.S. Tope

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 24 AUGUST 2023

PER COURT :

. Heard the learned Advocate for the petitioner, learned AGP, learned Advocate for Respondent No.2 and the learned Advocate for Respondent no.7. Mr. Pawar holding for Mr. Tope learned Advocate for Respondent No.7 tenders across the bar a communication informing that the birth register being maintained by it demonstrates petitioner's date of birth as 14.11.2002 and the certificate produced on record by her dated 04.07.2005 was issued by its department.

2. The petitioner is seeking correction of date of birth in the secondary school record and consequent change in the SSC Certificate issued by the respondent no.2/Board.

3. Admittedly, the respondent no.3/Education Officer (Secondary) has passed the order on 18.03.2020 (Exhibit-G) purportedly by invoking the powers under clause 26.4 of the Secondary School Code, approving correction of the date of birth in the petitioner's secondary school record.

4. The power and the jurisdiction of respondent/Board in the light of Rule 59(3) of the Maharashtra Secondary and Higher Secondary Education Boards Regulations, 1977 (hereinafter referred to as 'Regulation 1977') have been elaborately considered by us in the matter of Achari Abhijeet Mohanan in Writ Petition No.1254/2021 by the order dated 07.09.2022. Incidentally even the Board was a party therein and was heard before we passed the order *inter alia* referring to clause 26.4 of the Secondary School Code as well as Rule 59(3) of the Regulations 1977. This Court had expressly observed that once the Education Officer passes an order under clause 26.4, the board cannot seat over and ignore it by resorting to Rule 59(3) of the Regulations 1977. On our query, the learned Advocate for the respondent no.2/Board submits that only a proposal has been forwarded for challenging the order of this Court in the matter of Achari (supra).

5. The fact remains that in the matter of Achari (supra), we have already considered the stand of the Board and refuted it. The issue therefore is no longer *res integra*.

6. The writ petition is allowed. The respondent no.2/Board shall

pass appropriate order in the light of the above observations and the observations in the matter of Achari (supra) on the proposal forwarded by the Education Officer dated 05.01.2019 (Exhibit-F) as expeditiously as possible and in any case within three weeks.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb.