

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

13 WRIT PETITION NO. 8533 OF 2021

Dhananjay Fulchand Khomane,
Age. 18 years, Occu. Student,
R/o. Near Bhosle Vidhyalay Jikthan,
Tal. Gangapur, Dist. Aurangabad.

....Petitioner

Versus

1. The State of Maharashtra,
Through Secretary School Education
and Sports Department,
Mantralaya, Mumbai.
2. The Education Officer (Secondary),
Zilla Parishad, Aurangabad.
3. Maharashtra State Board of Secondary
and Higher Secondary Education,
Aurangabad Divisional Board,
Station Road, Osmanpura, Aurangabad,
Through its Divisional Secretary.
4. Orchid Techno School,
Pl.No.14/40, Cidco,
Waluj Mahanagar, Dist. Aurangabad.
Through its Head Master

....Respondents

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Advocate for Petitioners : Mr. Kale G.D.

AGP for Respondent Nos. 1 & 2 : Mr. S.R. Yadav-Lonikar

Advocate for Respondent No. 3 : Ms. N.D. Patil h/f. Ms. S.P. Mahajan

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

DATE : 09 OCTOBER 2023

JUDGMENT :

Heard both the sides finally. Rule.

2. The petitioner is aggrieved by the order passed by the respondent no. 3 – Board, dated 02 November 2022, refusing to correct the certificate and marks memo issued pursuant to the order

passed by the Education Officer in exercise of the powers under the clause 26.4 of the Secondary School Code. The reason being assigned is questioning the legality of the correction made by the school in the original record pursuant to the order of the Education Officer, and by referring to Rule 59 (3) of the Maharashtra Secondary and Higher Secondary Education Boards Regulations, 1977 (for short 'the Regulation of 1977').

3. Having heard both the sides, it would be suffice to observe that the issues being raised by the respondent no. 3 – Board, are no more *res integra*, in view of the decision of this Court in the matter of Achari Abhijeet Mohanan Versus The State of Maharashtra and others, in Writ Petition No. 1254/2021, dated 07 September 2022, to which one of us (Mangesh S. Patil, J.) was a member.

4. It has been specifically laid down that once the Education Officer passes an order under clause 26.4 of the Secondary School Code, and the school record is corrected, the board has no power and jurisdiction to question it by resorting to Rule 59 (3) of the Regulation of 1977.

5. When admittedly, the original school record has been corrected pursuant to the order of Education Officer passed under clause 26.4 of Secondary School Code, the board is legally obliged to follow the course.

6. The writ petition is allowed. The impugned order is quashed and set aside. The respondent no. 3 – Board shall, in accordance with the order passed by the Education Officer and the corrected school record, issue fresh mark memo and passing certificate to the petitioner as expeditiously as possible and in any case within a period of three weeks.

7. Rule is made absolute in above terms.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

spc/