

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

947 WRIT PETITION NO. 8156 OF 2023

SHRADHA VIJAY SABLE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Salgare Vitthal G.
AGP for Respondent No. 1 : Mr. P.S. Patil
Advocate for Respondent No. 2 : Mr. Umesh Mote
...

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

DATE : 11 JULY 2023

PC :

Heard the learned Advocate for the petitioner, learned AGP and the learned Advocate Mr. Mote, who appears for the respondent no. 2 – Maharashtra State Board of Secondary and Higher Educational Division Board.

2. The petitioner was seeking correction of her date of birth in the school record. The respondent no. 3 – Education Officer, in exercise of the powers under Rule 26.4 of the Secondary School Code, 1986, passed the order for correction of the school record. Accordingly, the correction was carried out by the school and the Head Master. The respondent no. 4 forwarded requisition to the respondent no. 2 for carrying out necessary correction in the marks memo and SSC

certificate issued by it. By the impugned order respondent no. 2 has refused to incorporate the correction by resorting to apparently an independent scrutiny. Initially, some explanation was sought from the Headmaster. The original school record was called and still the proposal forwarded by the Headmaster was rejected by the impugned communication dated 13 March 2023.

3. The issue is as to whether the respondent – Board has any power and jurisdiction to sit over and refuse to implement the order passed by the Education Officer purportedly in exercise of the powers under Rule 26.4 of the Secondary School Code. The issue was before us and is no longer *res integra*. In the matter of Achari Abhijeet Mohanan Versus The State of Maharashtra and others, in WP 1254/2021, decided by the order dated 07 September 2022, this Court has emphatically observed that once the entry in school record is lawfully altered by way of an order passed by the Education Officer under the Secondary School Code, it is the bounded duty of the board i.e. the respondent no. 2 herein to effect the change in the marks sheet and the certificate issued by it under the provisions of Rule 59.3 of the Secondary School Regulation, 1977.

4. *Ex facie*, therefore, the impugned order is passed without jurisdiction and being illegal deserves to be set aside.

5. The Writ Petition is allowed. The impugned order is quash and set aside and respondent no. 2 is directed to carry out necessary correction in the SSC certificate and the marks sheet of the petitioner as ordered by the Education Officer, by his order dated 13 March 2023, as expeditiously as possible and in any case within a period of four weeks from today.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

spc/