

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

WRIT PETITION NO.9460 OF 2022

Sachin s/o Rohidas Pawar
u/g. of his father
Rohidas Sheshrao Pawar

... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Maharashtra State Board of
Secondary and Higher Secondary
Education, Divisional Board,
Aurangabad, through its
Divisional Secretary.
3. The Education Officer (Secondary)
Zilla Parishad, Parbhani.
4. Jijau Dnyantirth Secondary School,
Pathri Road, Parbhani, Dist.: Parbhani,
through its Head Master.

... **RESPONDENTS**

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Advocate for Petitioner : Mr. Panpatte V.S.

A.G.P. for respondent Nos.1 and 3 : Mr. S.G. Sangale

Advocate for respondent No.2 : Mr. U.S. Mote

Advocate for respondent No.4 : Mr. Majit Shaikh h/f. Mr. S.S. Deshmukh

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

DATE : 10.10.2023

PER COURT : (SHAILESH P. BRAHME, J.)

Heard learned counsel for the respective sides finally at the admission stage.

2. The petitioner is questioning letter dated 08.06.2022 issued by the respondent No.2 - Board rejecting the proposal for correction in the date

of birth of the petitioner in the passing certificate issued by the respondent No.3.

3. It is a case of the petitioner that his date of birth was incorrectly recorded as 17.10.2002. It should have been 17.10.2004. The petitioner resorted to the proceedings under Section 13 of the Birth and Death Registration Act by filing Criminal Miscellaneous Application No.160/2019. The competent court by order dated 27.08.2020 allowed the application and directed to correct the record regarding date of birth of the petitioner as 17.10.2004.

4. The petitioner submitted application to respondent No.3 – Education Officer for correction in school record. The respondent No.3 - Education Officer allowed the application by passing order on 30.09.2020. Thereafter the proposal was submitted to the respondent No.2 for correction in the passing certificate in pursuance of the correction as permitted by the respondent No.3 – Education Officer. The proposal is rejected by respondent No.2 by communication dated 08.06.2022 citing a reason that as the petitioner had left the school it was not permissible to effect any correction.

5. In view of the law laid down in the case of **Janabai d/o. Himmatrao Thakur Vs. State of Maharashtra and Ors.; 2019 (6) Mh.L.J. 769** the respondent No.3 – Education Officer is the competent authority to correct the school record. The said procedure has been followed in the present matter as there is order passed by the respondent No.3 – Education Officer on 30.09.2020. Thereafter, the respondent No.2 was bound to

follow the direction/order passed by the Education Officer on 30.09.2020. The respondent No.2 has no independent jurisdiction to consider the merits of the application/proposal once the same has been considered and allowed by respondent No.3 – Education Officer.

6. In view of the decision rendered by the High Court in the matter of **Achari Abhijeet Mohanan Vs. The State of Maharashtra and Orther** passed in **Writ Petition No.1254/2021** we find that the impugned communication passed by the respondent No.2 is unsustainable and without jurisdiction. We, therefore, quash the impugned communication. In the facts and circumstances of the case following order is passed:

- i. The communication dated 08.06.2022 issued by the respondent No.2 is quashed and set aside.
- ii. The respondent No.2 shall carry out the corrections in the original secondary school certificates and the mark statements of the petitioner within a period of two weeks.

7. The writ petition is disposed of in above terms.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)