

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO.13916 OF 2021

SANTOSH DIPCHAND RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. N. R. Thorat h/f Mr. Amol L. Dhoble
AGP for Respondent Nos. 1 & 3 : Mr. A.S. Shinde
Advocate for Respondent No. 2 : Mr. U.S. More

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

DATE : 11.08.2023

PER COURT :

Heard both the sides finally at the stage of admission.

2. The petitioner is seeking correction of his date of birth in the S.S.C. passing certificate issued by the respondent No. 2- Board.

3. It appears that the request of the petitioner was put up with the headmaster. It was forwarded to the Education Officer (Secondary) Zilla Parishad Aurangabad. He passed an order purportedly in tune with Clause 26.4 of the Secondary School Code and forwarded a proposal to the respondent No. 2. By the impugned communication the respondent No. 2 has refused to take appropriate steps on the ground that the request of the petitioner was made after he had left the school and on the ground that it was inconsistent with Rule 59(3) of the Maharashtra Secondary and Higher Secondary Education Boards Regulation 1977 (hereinafter Regulation 1977).

4. In fact, the issue is no more *res integra* . In the matter of **Achari Abhijeet Mohanan Vs. The State of Maharashtra and others** (in Writ Petition

No. 1254/2021) we had an occasion to consider both these aspects. It has been specifically laid down in the matter of **Janabai D/o Himmatrao Thakur Vs. state of Maharashtra and others; 2019 (6) Mh.L.J.,769** , which is a full bench decision of this Court that only because a pupil leaves the school that cannot be a ground to refuse to carryout necessary correction if it is an obvious mistake. We also had observed in the matter of **Achari Abhijeet Mohanan (supra)** that once the Education Officer passes an order pursuant to the Clause 26.4 of the Secondary School Code, the Board cannot sit over in appeal and is supposed to simply implement the order.

5. Pertinently, even we had expressly disagreed with the stand being taken by the Board even in that matter that Rule 59.3 of the Regulation 1977 enables the Board to rout the order passed by the Education Officer.

6. In view of such law laid down by this Court, the impugned order is not sustainable.

7. The Writ Petition is allowed. The impugned order is quashed and set aside. The matter is relegated back to the respondent No. 2 to take appropriate steps in the light of the observations of this Court in the matter of **Janabai D/o Himmatrao Thakur** and **Achari Abhijeet Mohanan (supra)**, as expeditiously as possible and in any case within six weeks from today.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-