

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

WRIT PETITION NO.12193 OF 2022

Vivek Hemant Jadhav

... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Principal Secretary
Rural Development Department,
Mantralaya, Mumbai.
2. The Divisional Secretary,
Maharashtra State Secondary and
Higher Secondary Education Board Pune.
3. The Chief Executive Officer,
Zilla Parishad, Dhule, Dist. Dhule.
4. The Education Officer (Secondary),
Zilla Parishad, Dist. Dhule.
5. Raje Chatrapati Marshal Aarts
English Medium Public School
Pimpalner,Tq: Sakri, Dist: Dhule
through its Principal

... **RESPONDENTS**

...

Advocate for Petitioner : Mr. Temak Rahul B.

AGP for Respondent/State : Mr. S.B. Yawalkar

Advocate for Respondent No.2 : Mr. Y.R. Marlapalle

Advocate for respondent No.5 : Mr. A.T. Kanawade

...

CORAM

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

DATE

: 29.08.2023

PER COURT :

Heard both the sides.

2. The petitioner is assailing an order dated 31.10.2022 passed by the Education Officer (Secondary) rejecting the application of the petitioner for correcting his date of birth in the school record. Only ground assigned

by Education Officer is that petitioner ceased to be a student of the school concerned.

3. It is the case of the petitioner that he was admitted in the school in the year 2004. At the relevant time the date of birth of the petitioner was recorded as 21.10.1998. Later on it revealed to the petitioner that an incorrect date of birth was recorded. Therefore, an application was submitted to the respondent No.5 for correction of the date of birth on the basis of documents available with the petitioner. The correct date of birth was 21.10.1999. The respondent No.5 forwarded the application to the respondent No.4. By the impugned order/communication the request of the petitioner was rejected.

4. The learned AGP has submitted that there is an alternate remedy in view of Clause 15 of the Appendix VI of Secondary School Code. As the impugned order/communication is flagrantly violative of the judgment delivered by the full bench, we are not entertaining the plea of alternate remedy raised by learned AGP. We do not think it fit to relegate the petitioner to appellate forum in the given facts of the matter.

5. The issue involved in this petition is no more *res integra*. Already a judgment rendered by full bench in the matter of **Janabai d/o. Himmatrao Thakur Vs. State of Maharashtra and Ors.**; 2019 (6) Mh.L.J. 769 is operating in the filed. It is the respondent No.4 who has power to correct the school record. The reason assigned by the respondent No.4 is unsustainable.

6. For the reasons stated above, the writ petition is disposed of by following directions :

- i. The impugned judgment and order dated 31.10.2022 passed by Education Officer Secondary is quashed and set aside.
- ii. The matter is relegated to the Education Officer to decide the application for correction of date of birth afresh on its own merit considering the document placed on the record.
- iii. The respondent No.4 shall decide the application within a period of two weeks.
- iv. The writ petition is disposed of in above terms. There shall be no order as to costs.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)