



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

**WRIT PETITION NO. 14410 OF 2021**

**SADIYA NOORI MOHAMMED SAJID  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Zia Ul Mustafa  
AGP for Respondent No.1 & 3/State : Mr. P.P. Dawakar  
Advocate for Respondent No.2: Ms.Nayana Patil h/f  
Mrs.Mahajan Surekha P  
Advocate for Respondent No.4 : Mr. Vishal Amritlal Bagdiya

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

**DATE : 25 JULY 2024**

**PER COURT :**

. The petitioner is aggrieved by the fact that in spite of the Education Officer/respondent no.3 having permitted correction of the school record in respect of petitioner's name, in the light of clause 26.4 of the Secondary School Code, the respondent no.2/Board by the impugned order dated 04.09.2020 has refused to carry out correction in the SSC Mark-sheet and passing certificate.

2. The learned advocate for the respondent no.2 is opposing the petition banking upon rule 59(3) of the Maharashtra Secondary and Higher Secondary Education Boards Regulations, 1977.

3. The issue is no longer *res integra*. We have elaborately considered this in the light of decision in the matter of **Achari Abhijeet Mohanan Vs. State of Maharashtra and Others**, in Writ Petition No.1254/2021. Paragraphs No.9 to 14 read as under :

9. Now coming to the second reason of the provisions of Rule 59 (3) of the Regulations 1977, we find that there is no absolute prohibition in the said Rule for effecting change in the name of the candidate. Mr. Mote, the learned Advocate appearing for respondent No. 2 Board has drawn our attention to the provisions of Rule 59 (3) of the Regulations 1977. Rule 59 (3) is reproduced as under :

“59. AWARD OF CERTIFICATES

(3) In the event of an error being discovered in the entry of the name or the date of a birth in the application of a candidate for admission to the examination and consequently ,in the statement of marks or the certificate" an application for correction of such error shall be admitted only when the name or the date of birth so recorded is not identical with the name or the date of birth of the successful candidate originally entered in the school register or in the service record in the case of a full-time teacher. An application for correction of such error shall be made through head of the secondary school presenting the candidate for the examination in such form as may be prescribed by the Divisional Board. Such correction, when made by the Divisional Board, shall be indicated on the reverse "in the statement of marks or the certificate" by an endorsement in such form as may be prescribed by the State Board.”

10. Perusal of Sub Rule 3 of Rule 59 would show that the same contains an enabling provision for correction entry of name in the statement of marks and the certificate in the eventuality of such entry not being identical with the original entry in the School register. Thus, in the event of mismatch between the entry of name in the School register and in the Mark Sheet/Certificate of Board, the same can be corrected. In the present case, on account of order of the Education Officer dated 28.10.2020, change in the entry of the name of the School record has been effected. On account of such change, there is mismatch between the entry of name in School records and in the Mark Sheet/ Certificate of the Board. Rule 59 (3) in fact enables the Board to match the entry of Mark Sheet and the Certificate with that of the School records. Thus, far from preventing the correction or entry in the name, Rule 59 (3) in fact enables the Board to effect such a change. We therefore, find that reliance on the provisions of Rule 59 (3) by the Board is totally erroneous.

11. Coming to the last reason of permissibility of change of entry effected by the headmaster after Petitioner had left the School, we find this reason also erroneous. Again, while recording this reason the Board has conveniently ignored the fact that the headmaster has effected the change in the admission register, in pursuance of the order passed by the

Education Officer. The Education Officer has necessary jurisdiction, power and authority under the provisions of S.S.Code, to permit effecting of such changes. However, it appears that the Board has erroneously assumed that the headmaster has unauthorisedly effected change in the admission register. This is far from the truth. Therefore, the last reason is also unsustainable.

12. As a matter of fact, the jurisdiction for effecting change of entry in the School records is vested with the Education Officer alone. The Board is not vested with any jurisdiction to effect the change of entry in the School records. All that is provided for under rule 59 (3) of the Regulation 1977 is the enabling provisions to match the entry in the Mark Sheet and the Certificate issued by the Board with that of the School records.

13. Once the entry in the School record is lawfully altered by way of the order passed by the Education Officer under the provisions of S.S.Code, it is the bounden duty of the Board to effect a similar change in the Mark Sheet and the Certificate issued by it under the provisions of Rule 59 (3) of the Regulation 1977.

14. Rather than effecting a change of entry of name of the petitioner in the Mark Sheet and the Certificate pursuant to the change effected in the School records by way of order passed by the Education Officer, the Board has unnecessarily driven the petitioner to this Court. The impugned communication further shows that the Board has called for an explanation from the Education Officer for sending the petitioner's proposal. We fail to understand the propriety on the part of the Board in doing so. The Board itself has failed in performing its statutory duty under Rule 59 (3) and wants to take Education Officer to the task for sending lawful proposal to it. This is like putting a premium on illegality. We deprecate this action of the Board.

4. In the light of above, the writ petition is allowed. The impugned order/communication is set aside.

5. The respondent no.2/Board shall direct to effect change in the entry in the name of petitioner in the mark-sheet and the certificate as expeditiously as possible and in any case within four weeks.

**[ SHAILESH P. BRAHME, J.]**

**[ MANGESH S. PATIL, J.]**