

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

WRIT PETITION NO. 2158 OF 2014

Bharatsing Jhamsing Naik .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Ravindra B. Ade, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 and 4.

Shri Manoj Shinde, Advocate h/f Shri M. K. Goyanka, Advocate
for the Respondent No. 2.

The Respondent No. 3 is served.

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.**

DATE : 16TH FEBRUARY, 2015.

PER COURT :

. The learned counsel for the petitioner submits that, Rule 26(4) of the Secondary School Code does not prohibit change of date of birth in the school record after the person has left the school.

2. Mr. Ade, the learned counsel states that, the Education Officer on erroneous belief that the petitioner has left the school has refused to exercise his jurisdiction. According to the learned counsel provisions of Rule 26(4) of the Secondary School Code are directory in nature.

3. Mr. Shinde, the learned A. G. P. submits that, if the date of birth which the petitioner is asking, is allowed to be corrected, then the petitioner would not be eligible to be considered for appointment as on the date when the petitioner was appointed.

4. We have heard the learned counsel for the Zilla Parishad also.

5. Considering the fact that, the application is made by the petitioner at the time of verge of retirement, it would not be appropriate to pass any order directing the respondent No. 2 to consider the said application after lapse of almost 40 years after the petitioner has left the school. The writ petition accordingly is disposed of. No costs.

[V. L ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]