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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2951 OF 2014

Javed Farooq Solanki

..Petitioner

Vs.

Union of India & Anr.

..Respondents.

Mr. Jayesh Bhatt for Petitioner.

Mr. Vijay Kantharia with D.P. Singh for Respondents.

**CORAM: B.R. GAVAI &
A.S. GADKARI, JJ.**

DATE : 19th March 2015.

P.C.:

Rule.

2 The facts in the present Petition are identical with Criminal Writ Petition No.3746 of 2013 decided by the Division Bench of this Court on 29th October 2015.

3 Rule is therefore made partly absolute in the following terms:

The Petitioner shall be at liberty to make an application to the court of competent Metropolitan Magistrate in Mumbai and the learned Magistrate then to consider the Petitioner's request as made therein, in accordance with law and on its own merits, as expeditiously as possible

and within a period of three months from the date of such application being received by him. However, we do not see that this is a fit case to grant any relief much less a direction to the Passport Authorities to effect any change in the date of birth and as prayed by the Petitioner. That relief could be sought from the court of competent jurisdiction in the form of declaration. We clarify that it would be not open for the Respondent Nos.1 and 2 to urge before the Magistrate or any other forum that the Judicial Magistrate First Class or the Metropolitan Magistrate, in this case, has no power or jurisdiction to issue a declaration as prayed by the Petitioner. In terms of the Passport Manual, 2010, it would be their plain duty to effect the necessary changes in the passport as per the declaration made of the competent court. The Respondent Nos.1 and 2 shall not take a stand that the Magistrate has no power to issue any consequential or incidental direction after the declaration issued in favour of the Petitioner with regard to his date of birth. All such orders and directions of the Magistrate shall be given effect by the Passport Authorities without insisting on any separate application by the Petitioner. However, this does not mean that the Petitioner is not required to fill up the necessary or electronic form with the Passport Office.

4 There will be no order as to costs.

(A.S. GADKARI, J.)

(B.R. GAVAI, J.)