

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

**WRIT PETITION NO. 4366 OF 2016**

Shailesh s/o Milind Kokare,  
Age : 22 years, Occu. Student,  
R/o Deogaon Chal, Post Vazirabad,  
Nanded – 431 601

**PETITIONER**

**VERSUS**

1. The Union of India,  
through Ministry of Human  
Resource Development,  
Parliament House,  
New Delhi
2. The Central Board of Secondary  
Education, "Shiksha Kendra",  
2, Community Centre, Preet Vihar,  
Delhi – 110 092, through  
its Chairperson
3. The Regional Officer,  
Central Board of Secondary  
Education, Regional Office,  
Anna Nagar, Chennai  
Tamil Nadu
4. The Principal,  
Gyan Mata Vidya Vihar  
Kamtha Road, Nanded,  
District Nanded

**RESPONDENTS**

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Mr. Madhav C. Ghode, Advocate for the petitioner  
Mr. S.B. Deshpande, Additional Solicitor General of  
India for respondent Nos. 1 to 3  
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**CORAM : S.S. SHINDE AND**  
**SANGITRAO S. PATIL, JJ.**

**DATE : 22<sup>nd</sup> JULY, 2016**

**PER COURT :**

Heard the learned counsel for the petitioner and learned Additional Solicitor General of India for respondent Nos. 1 to 3.

2. The prayer of the petitioner for correction of date of birth in the school record has been turned down by the respondent Nos. 1 to 3 on the ground that there is amendment in the Examination Bye-laws.

3. The learned counsel for the petitioner submits that the petitioner filed an application on 9<sup>th</sup> June, 2015 for correction of date of birth in the school record to respondent No. 3 through respondent No. 4. However, the same was turned down relying on the notification dated 25<sup>th</sup> June, 2015, which was communicated to the Heads of all the affiliated Schools of the Board and therefore, the said amendment stipulating one year limitation for filing the application for change in the date of birth in the school record, is not applicable in the case of the petitioner.

4. On the other hand, the learned Additional Solicitor General (A.S.G.), relying on the averments in the affidavit-in-reply filed on behalf of respondent Nos. 1 to 3 and Clause (iv) of Rule 69 (2) of the Examination Bye-laws, amended as per Notification dated 25<sup>th</sup> June, 2015, submits that the recommendation of the Examination Committee held on 31<sup>st</sup> March, 2015 was accepted and the amendments/additions have been made in the Examination Bye-laws immediately with effect from the said date. The learned A.S.G. also invited our attention to the office order dated 6<sup>th</sup> February, 2015, issued by the Chairperson of the Central Board of Secondary Education (C.B.S.E.) and submitted that the clause (3) of the said order and Section II of Chapter XIII of the Manual of Rules and Regulations for the C.B.S.E., quoted thereunder, also provides for filing an application within one year from the date of the qualifying certificate.

5. We have heard the learned counsel for the petitioner and the learned A.S.G. appearing for respondent Nos. 1 to 3. With their able assistance, we have perused the petition, annexures thereto and in

particular, Exhibit-E to the petition and the affidavit-in-reply filed on behalf of respondent Nos. 1 to 3 and Exhibit-R1 thereto.

6. It is true that the C.B.S.E. issued the office order on 6<sup>th</sup> February, 2015 mentioning therein that the candidates have to apply for correction in the entries with regard to the dates of birth of the candidates in their application forms within one year from the date of issuing the qualifying certificates. However, it appears that the said recommendation of the Examination Committee held on 31<sup>st</sup> March, 2015 was accepted and a notification was issued to that effect. Though the learned A.S.G. contended that the said notification came into effect immediately from 31<sup>st</sup> March, 2015, it appears that the said notification was communicated to the Heads of all the affiliated Schools of the Board on 25<sup>th</sup> June, 2015. When the said notification was issued subsequently, the office order dated 6<sup>th</sup> February, 2015 could not have been pressed into service immediately. Therefore, in the peculiar facts and circumstances of this case, when the notification of amendment in Examination Bye-laws is made known to the Heads of the

affiliated Schools of the Board of Secondary and to the general public, the application filed by the petitioner on 9<sup>th</sup> June, 2015 for correction in his date of birth could not have been rejected on the ground that the said application was not filed within one year from the date of issuance of qualifying certificate in favour of the petitioner.

7. In the circumstances, considering the peculiar facts and circumstances of this case and the discussion in the foregoing paragraphs, we direct respondent Nos. 2 and 3 to consider the proposal submitted by respondent No. 4 to respondent No. 3 dated 23<sup>rd</sup> February, 2016 on its own merits without raising the ground that the application filed by the petitioner for correction of date of birth is not within one year from issuance of the qualifying certificate i.e. Grade Sheet cum Certificate of Performance. Respondent Nos. 2 and 3 shall take the decision as expeditiously as possible; however within six weeks from today.

8. The writ petition stands disposed of on the above terms.

9. The parties to act on authenticated copy of this order.

**[SANGITRAO S. PATIL]**  
**JUDGE**

**[S.S. SHINDE]**  
**JUDGE**

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