

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.1232 OF 2015

Shri Ramrao S/o Nagorao Shingare

..vs..

**The State of Maharashtra, through its Principal Secretary, (Service) General
Administration Department, Mantralaya, Mumbai-32 and ors**

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Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri S.V. Sohoni, counsel for the petitioner.
Shri D.M. Kakani, counsel for R-1 & 2.
Shri I.L. Bodade, counsel for R-3.
Ms M.R. Chandurkar, counsel for R-4.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA K. JAIN, JJ.**

DATED : JULY 27, 2016.

Heard learned counsel for the respective parties.

The petitioner seeks correction of his date of birth from 1.11.1953 to 9.4.1957.

Learned counsel Shri S.V. Sohoni for the petitioner places reliance upon order dated 10.12.2012 passed by passed by learned Additional Sessions Judge Ambajogai, in Criminal Revision Application No.41 of 2012 to urge that the said authority has already found 9.4.1957 to be the correct date of birth and, therefore, it ought to have been also recorded in his service record.

Learned special counsel Shri D.M. Kakani for respondent Nos.1 and 2, learned counsel Shri I.L. Bodade for respondent No.3, and learned counsel Ms

M.R. Chandurkar for respondent No.4 oppose the writ petition. They point out that initial application, under Section 13(3) of The Registration of Births and Deaths Act, 1969 (for short, the said Act), moved by the petitioner before learned J.M.F.C. was itself not maintainable and misconceived. Our attention is also drawn to the specific finding, in this respect, by the revisional authority to demonstrate that the petitioner accepted that he would not use that order of correction for service purposes.

Learned special counsel Shri D.M. Kakani for respondent Nos.1 and 2 has also invited our attention to the documents filed along with submission before this Court. He points out that as per school leaving certificate, submitted by the petitioner while joining employment, he entered the school on 7.12.1956 i.e. before his alleged correct date of birth. The real sister of the petitioner is born on 12.8.1957 i.e. just within four months of alleged correct date of birth of the petitioner.

In the light of this contention, we have perused documents as also the orders passed by the Central Administrative Tribunal. The petitioner has submitted school leaving certificate while joining employment and accordingly his date of birth came to be recorded. It is not his case that his birth was not registered as per the provisions of the said Act. He

utilized forum under Section 13(3) of the said Act to get date of birth corrected. That exercise is not permissible under the said provision. The revisional authority i.e. learned Additional Sessions Judge has, in his order dated 10.12.2012, specifically taken note of this fetter on jurisdiction of learned J.M.F.C.

Only on the basis of the said order, effort to obtain correction cannot be sustained. Similarly, the petitioner has, after receipt of submissions filed by respondent Nos.1 and 2 before this Court on 8.10.2015, not filed any counter to explain how his date of entry into school is shown prior to his alleged correct date of birth. He has also not explained birth of his sister within four months of his alleged correct date of birth.

The petitioner after joining services directly as S.D.O., has later on entered the I.A.S. cadre.

We, therefore, find the entire litigation *mala fide*. We impose upon him costs of Rs.10,000/- (Rupees Ten Thousand Only). The costs shall be paid to respondent Nos.1 and 4 in equal proportion within three months. Respondents can also recover it by effecting suitable deduction from his pension.

Accordingly, the writ petition is dismissed with costs.

JUDGE

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on : -29/07/2016

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