

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

WRIT PETITION NO. 6605 OF 2015

SITARAM DAGDU NARKHEDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr.Talhar Ajay G.
AGP for Respondents : Mr. P.S.Patil

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 6th MARCH, 2017

O R D E R :

Mr. Talhar, learned counsel for the petitioner states that the petitioner has joined as an Assistant Teacher with respondent school. In 2010 he was promoted as a Head Master. The date of birth of the petitioner was recorded as 5.7.1956 in the service book. The petitioner immediately on noticing the said fact got his date of birth corrected. Gazette to that effect was issued by the Government thereby correcting the date of birth of the petitioner as 16.8.1957. The petitioner had joined the respondent/school on 15.6.1987. Immediately on joining, the petitioner filed an application for correction of date of

birth in the school record. The management did not take any further steps. It is for the management to take further steps. It is only on 30.4.2012 the management passed a resolution and sent it to the Education Officer. The Education Officer erroneously rejected the case of the petitioner on the ground that as per Rule 67.6 Annexure 53 the application is not filed within two years. The petitioner cannot be made to suffer because of inaction on the part of the management. The petitioner was diligent as he had immediately filed an application for correct of date of birth in the service book. The learned counsel submits that Rule 67.6 r/w Annexure 53 is directory in nature.

2. We have heard learned A.G.P. for the respondent/State.

3. It appears that the petitioner had joined services with respondent school on 15.6.1987. The date of birth of the petitioner recorded in the

service book is 5.7.1956. It appears that by filing affidavit before the Tahsildar the petitioner got his date of birth changed in the Government Gazette from 5.7.1956 to 16.8.1957. The same appears to have been done in the year 1988, however, the school record of the petitioner shows the date of birth of the petitioner as 5.7.1956. Though the petitioner has contended that the petitioner immediately had filed application for correction of date of birth with the management the copy of the said application is not forth coming. Even the resolution passed by the management does not give the date of the application filed by the petitioner for correction in date of birth. The resolution of the management is dated 30.4.2012 i.e. after the period of 25 years the petitioner had joined the institution.

4. Clause 67.6 of the Secondary Schools Code, 2015 reads as under : -

"67.6 The entries in the service book, especially those relating to

date of birth, educational and professional qualifications, etc. should be verified by the Head of the school personally from the original record. A remark "the entry is in accordance with the original certificates" should be made in the respective columns and signed and dated by the Head after verification. The date of birth should be verified from the original school leaving certificate or S.S.C. Examination certificate. The educational and/or professional qualifications should be verified from the original certificates/diplomas/degrees of the examinations passed by the candidates."

Annexure 53 also is relevant, which prescribes period of two years. Even if we do not consider the period of two years strictly, still the same would not enure to the benefit of the petitioner, in as much as the school record of the petitioner mentions the date of birth as 5.7.1956. The same stands even today. It is also not the case of the petitioner that the entry of date of birth in the service book was taken by mistake or the same was not in conformity with the documents produced by the petitioner at the time of entry in service.

5. Considering all the afore said conspectus

of the matter, it is not possible to accede to the arguments of the petitioner.

6. Writ Petition, as such, is dismissed.

No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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