

**IN THE HIGH COURT OF BOMBAY AT GOA.****WRIT PETITION NO. 1031/2016**

Shri. Rudra Shailesh Sanvordenkar,  
 Son of Shri. Shailesh Sanvordekar,  
 aged 20 years, Indian National,  
 bachelor, resident of Flat No.103,  
 First Floor, Elite 'X' Clusive,  
 Near Corp. Bank ATM,  
 Vidyanagar, Margao – Goa.

**PETITIONER****VERSUS**

- 1] Union of India,  
 Through Ministry of Human Resource  
 Development, Govt. of India,  
 Having office at New Delhi.
- 2] Central Board of Secondary  
 Education, Having its office  
 at Shiksha Sadhan,  
 17, Rouse Avenue,  
 New Delhi – 110 002.
- 3] Central Board of Secondary Education  
 (Regional Office),  
 J Block, 16<sup>th</sup> Main Road,  
 Ana Nagar West,  
 Chennai – 600 040.
- 4] Vidya Vikas Academy,  
 Through its Principal,  
 Having office at GR Kare Road,  
 Comba, Goa – 403 601.

**RESPONDENTS**

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Shri Shivan Desai, Advocate for the petitioner.  
 Shri M. Amonkar, Central Government Standing Counsel for the  
 respondents.

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**WRIT PETITION NO. 967/2016**

Shri Alister Gospar Lima,  
son of Gospar Lima,  
aged 25 years, occupation Student,  
residing at House No.5,  
Veddem, Colony No.2, Porteem,  
Sanguem Goa.

**PETITIONER**

**VERSUS**

- 1] Union of India  
Through the Secretary  
Ministry of Human Resources  
Department of Education,  
New Delhi.
- 2] Navodaya Vidyalay Samiti  
Ministry of Human Resources Development  
Department of School Education and Literacy,  
Govt. of India  
D-15, Sector – 52, Noida (U.P.)
- 3] The Principal,  
Jawahar Navodaya Vidyalay,  
Canacona, South-Goa District Goa.
- 4] Central Board of Secondary Education,  
(An Autonomous Organisation under  
The Union Ministry of Ministry of  
Human Resource Development,  
Govt. of India)  
Shiksha Kendra,2,  
Community Centre,  
Preet Vihar, Delhi, 110092.

**RESPONDENTS**

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Shri S.N. Joshi, Advocate with Ms. S. Shetye, Advocate for the petitioner.  
Shri M. Amonkar, Central Government Standing Counsel for the respondents.

**CORAM : F.M.REIS & NUTAN D.SARDESSAI, JJ**  
**DATE : 05<sup>th</sup> JANUARY, 2017.**

**COMMON JUDGMENT (PER F.M. REIS, J):**

1] Both the above petitions are taken together for consideration as it was not disputed by the learned counsel appearing for the petitioners and the respondents that the point to be decided is identical.

2] Rule. Heard forthwith with the consent of the learned counsel. The learned counsel appearing for the respondents waive service.

3] Briefly, the facts of the case relevant to decide the above Writ Petition No.1031/2016 are that when the petitioner received a Hall Ticket/Admission Card for XIIth Standard Examination in May 2014, the petitioner realised that his middle name was mis-spelt as "Sailesh" instead of "Shailesh". The petitioner who was declared successful to such examination filed an application to correct his passing certificates as well as the mark-sheet and all the other relevant documents on 10.6.2015. The said application came to be rejected by the respondent no.3 by letter dated 6.8.2015 on the ground that in view of the amendment to Clause 69.1(ii), the period of limitation to effect such correction is one year from the date of the declaration of

result. Shri Shivan Desai, learned counsel appearing for the petitioner, submits that the application was filed in May 2015 and the amendment curtailing the period of limitation which was otherwise 10 years, was notified on 25.6.2015 and as such the petitioner was not governed by the said period of limitation. The learned counsel further points out that the petitioner has also challenged the validity of the said amendment, as according to him, the amendment would defeat the substantive rights of the petitioner in getting his correct name recorded in the certificates of his education qualification. The learned counsel further submits that though the requisite requirements in terms of the Rule were forwarded by the Head of the School to the respondent no.3, vide the said communication dated 6.8.2015, the respondent no.3 has refused to carry out such corrections. The learned counsel as such points out that the impugned communication requires interference and the respondent no.3 be directed to effect such corrections in accordance with law.

4] With regard to the reliefs in Writ Petition No.967/2016 the relevant facts to decide the said petition are that the petitioner was successful in the All India Secondary School Examination on 27<sup>th</sup> May, 2006. It is the contention of the petitioner that there was a mistake in the birth certificate as the date of birth as shown in the Leaving Certificate was not in

conformity with the registered birth certificate. The petitioner filed an application to the respondents no.3 and 4 in April 2016 to effect such corrections of the date of birth on the mark-sheet and the passing certificates of the concerned examination. It is further the case of the petitioner that his application was rejected on the ground that the application was filed beyond one year in terms of the said amendment to clause 69.1(ii).

5] Shri S.N. Joshi, learned counsel appearing for the petitioner, however, submits that when the results were declared in May 2006, the period of limitation to make such corrections was 10 years and in fact, the application filed by the petitioner, for such corrections, was within such time prescribed. It is further pointed out that the amendment which came into force in 2016 cannot curtail the period of limitation to make such corrections as in operation at the time of the declaration of the result. Shri Mahesh Amonkar, learned Standing Counsel appearing for the respondents, however, points out that in terms of the amendment to clause 69.1(ii), the period of limitation is one year and as such, according to him, as the application was decided after the coming into force of the said amendment, the respondents were justified to reject the application on the ground of limitation.

6] We have considered the submissions of the learned counsel and we have also gone through the record. The fact that both the applications filed by the petitioners were within the period prescribed as on the date of the declaration of the results of the respective petitioners is not disputed. The application filed by the petitioner in Writ Petition No.1031/2016 is within the period of 10 years as prescribed in the unamended clause 9.1. In Writ Petition No.967/2016 the application filed for rectifying the date of birth was also filed within the period prescribed in the unamended provisions which were in force on the date of the declaration of the result. In such circumstances, by a subsequent amendment, the period of limitation cannot be curtailed as such amendment would apply only prospective. The provisions fixing such periods of limitation are prospectively in the sense that they neither have the effect of reviving a right of action which is already barred on the date of the coming into such operation nor does it have the effect of extinguishing a right of action subsisting on such date. Consequently, we find that the impugned communications in both the petitions cannot be sustained and deserve to be quashed and set aside.

7] Hence, the impugned communication dated 6/9/2015 in Writ Petition No.1031/2016 and impugned communication dated 18/4/2016 in Writ Petition No.967/2016

are quashed and set aside. The respondent no.3 in Writ Petition No.1031/2016 and respondent no.4 in Writ Petition No.967/2016 are directed to take a direction on the applications filed by the petitioners for rectifying the concerned documents afresh in the light of the observations made above within a period of two months from the date of receipt of this order.

8] Rule is made absolute in the above terms.

NUTAN D. SARDESSAI, J

F.M. REIS, J

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