

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

WRIT PETITION NO. 6057 OF 2017

Arun s/o Narayan Pawar

.. Petitioner

Versus

Servodaya Vidya Mandi
Commerce and Science
Junior College, Rajur,
Taluka Akole, District
Ahmednagar, through its
Principal and ors.

.. Respondents

Mr L.V. Sangit, Advocate for petitioner
Mr A.J. Kanuwade, Advocate for respondent no.1
Mrs V.N. Patil Jadhav, A.G.P. for respondents no.3 and 4
Respondent no.2 served

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVALA, JJ**

Date : 1st March 2018

PER COURT

1. Mr Sangit, learned Counsel for the petitioner submits that the real date of birth of petitioner is 1.6.1962. According to him, even the pan card, Aadhar and election cards issued by the competent authority records the date of birth of the petitioner as 1.6.1962. In the year 1985, the petitioner was appointed as an Assistant Teacher with respondents no.1 and 2. On 1.4.1987, he was terminated. He had approached the School Tribunal. The matter was compromised. Thereafter, the petitioner realised that wrong date of birth is mentioned in the record. As such, he approached the Deputy Director of Education. On 11.3.2016, the Deputy Director of Education passed the order directing the authority to correct the record. Respondents no.1 and 2, in spite of the order of the Deputy Director of Education

did not carry out the correction, but issued retirement notice dated 2.12.2016. The petitioner replied the notice, however, to no avail. The learned Counsel submits that immediately upon joining the service in the year 1985, the petitioner applied for correction of date of birth in the service record. The same was well within the prescribed time as per the Circulars dated 17.6.1998 and 27.9.1994.

2. Learned Counsel for the petitioner submits that respondents no.1 and 2 are duty bound to abide by the orders passed by respondent no.3. Even the birth certificate issued by the authority under the Birth and Death Registration Act records the date of birth of the petitioner as 1.6.1962. However, only in the school record, the date of birth was wrongly recorded as 1.6.1959. All the documents substantially show the date of birth of the petitioner as 1.6.1962.

3. With the assistance of the learned Counsel, we have gone through the documents. As per the school leaving certificate, the petitioner had taken admission in the first standard on 15.8.1965. If his date of birth is considered as 1.6.1962, then the petitioner was admitted in first standard at the age of three only and passed out Xth standard at the age of twelve. The same is highly improbable. As per the date of birth 1.6.1959, the petitioner would be six years of age at time of taking admission in first standard. According to the petitioner, the date of birth 1.6.1959 even continued in the S.S.C. and H.S.C. Certificates. Considering the date of admission of the petitioner, the date recorded as 1.6.1959 is more probable and the same is also recorded in the service book of the petitioner. The birth certificate issued by Municipal Corporation of Greater Mumbai is dated 22.9.2015

and it is stated that the date of registration of the date of birth is 31.12.1987. Presumption would apply to the birth certificate only if the entry is recorded in accordance with the procedure as laid down under the Birth and Death Registration Act. The certificate does not record the facts, which are required as per the said Act. It also does not state as to who had intimated the factum of the birth of the petitioner as 1.6.1962.

4. Considering the above, the case of the petitioner cannot be considered. Writ Petition is dismissed. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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