

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

181 WRIT PETITION NO.5839 OF 2019

**MADHUKAR SUKADEO NIRMAL
VERSUS
THE STATE OF MAHARASHTRA NAD OTHERS**

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Advocate for Petitioner : Mr. Temak Rahul B.
AGP for Respondents/State : Mr. P.K. Lakhotiya
Advocate for Respondents : Mr. Deshpande Shantanu A. for R/2 & 3

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**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 20.08.2019

PC. :-

Mr. Temak the learned advocate for the petitioner submits that the actual date of birth of the petitioner is 01.09.1962, however in the school record his date of birth is recorded as 01.06.1961, that was a mistake on the part of the school authorities. The petitioner's date of birth is corrected in the school record. The petitioner is entitled for continuation in service till the date of retirement considering his date of birth as 01.09.1962. The reason assigned by the respondents that the application is not submitted within five years as per the Maharashtra Civil Services Rules is erroneous. The Maharashtra Civil Services Rules are not applicable to the respondent no.3. It would be governed by the Cooperative Law. According to the learned

advocate, though the petitioner is made to retire, the petitioner can be given the notional benefit.

2. The learned advocate for the employer submits that petitioner has been relieved from the service and the application was given by the petitioner five months prior to his date of retirement. The resolution has been passed by the respondent no.3 thereby adopting the Maharashtra Civil Services Rules.

3. The entry was taken in the service book about the date of birth of the petitioner in the year 1990 as 01.06.1961. Even if we assume that the provisions of the Maharashtra Civil Services Rules do not apply, still the petitioner did not file an application within a reasonable period. The application was filed by the petitioner for correction of date of birth in the service book for the first time five months prior to his date of retirement, the same was too late in the day to be considered.

4. In light of the above, the grievance of the petitioner cannot be entertained. Writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]