

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

944 WRIT PETITION NO. 1250 OF 2008

**VASUNDHARA DASHRATH LANDGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. Amol S. Sawant
AGP for Respondents No. 1 & 2: Mr. S. K. Tambe
Respondents No. 3 & 4 - served
Advocate for Respondent No. 5: Mr. V. P. Golewar

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 07th OCTOBER, 2020

PER COURT:

1. This Court had issued notices to the respondents on 28.01.2020. The notices were served on respondents no. 3 to 5 but none appeared. Thereafter, notice of final disposal was also issued to respondent no. 5 with direction to produce the General Register of the school disclosing the details of the petitioner's with regard to admission and / or the school leaving certificate.

2. None appears for respondents no. 3 and 4.

3. We have heard the learned A.G.P. for respondents no. 1 and 2.

4. Mr. Golewar, the learned Counsel appears for respondent no. 5. He has produced the original register giving the details of the admission of the petitioner. The maiden name of the petitioner is recorded as Vasundhara Shankarrao Bhalkar. In the said register, the date of birth was recorded as 24.12.1965. Upon perusing the same, there does not appear to be any interpolation. Upon perusing the original record, we have returned back the same to Mr. Golewar, the learned Counsel.

5. The petitioner joined the services with respondent no. 3 in the year - 1986. The date of birth of the petitioner was recorded as 24.12.1962 in the service record. Even on the transfer certificate and the school leaving certificate the date of birth of the petitioner is recorded as 24.12.1962.

6. It is the case of the petitioner that for the first time in the year - 2006 the petitioner got

the knowledge that the date of birth of the petitioner is recorded in the school record as 24.12.1965. Accordingly, in the year 2006 made an application to respondent no. 3 for correction of her date of birth in the service record. Respondent no. 3 processed the application and forwarded it to respondent no. 2. Respondent no. 2 rejected the said application under the impugned order on the ground that the application is not made within five years from the date of entry in service. The said order is assailed in the present writ petition.

7. The entry of date of birth of the petitioner in the original record appears to be recorded as 24.12.1965. It appears that the petitioner passed SSC examination in the year – 1981. She would be of 16 years, if the date of birth of the petitioner is 24.12.1965, the same appears to be reasonable and correct. In the school leaving certificate issued by the school where the petitioner passed 10 standard the date of birth is shown as 24.12.1962. It is only when the

petitioner changed the school and took admission in the Nutan Vidyalaya her date of birth was recorded as 24.12.1962. In the primary school the date of birth is recorded as 24.12.1965. We have verified the same from the original record produced by respondent no. 5.

8. The amendment to the Maharashtra Civil Services (General Conditions) Rules that the application should be made within five years is introduced in the year 2008. The petitioner has filed application prior to the said date.

9. One of the consideration while considering the application for change of date of birth at a late stage would be promotional rights of the other employees.

10. Mr. Sawant, the learned Advocate for the petitioner, on instructions, submits that if the date of birth of the petitioner is changed to 24.12.1965, the petitioner would not seek any promotional benefits except continuity in service on the post of Assistant Teacher till her date of

superannuation considering the date of birth as 24.12.1965. The said statement is accepted. The petitioner shall file affidavit to that effect with respondent no. 2 and respondent no. 3 school.

11. It appears that there was genuine clerical mistake while issuing the leaving certificate and recording the date of birth with the Nutan Vidyalaya.

12. In light of the above and the undertaking given by the petitioner, we set aside the impugned order and direct the respondents to correct the date of birth of the petitioner in the school record as 24.12.1965. Needless to state, the petitioner is bound by the undertaking given that the petitioner would not seek any promotional post and continue as Assistant Teacher till the date of her superannuation.

13. Writ Petition is accordingly allowed. No costs.