

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

**WRIT PETITION STAMP NO. 13216 OF 2020**

Balasaheb Daulat Garud

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Vinod B. Jadhav, Advocate for the Petitioner.

Mr. S. S. Dande, AGP for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA &  
R. G. AVACHAT, JJ.**

**DATED : 13<sup>th</sup> AUGUST, 2020.**

**PER COURT:-**

. Mr. Jadhav, the learned counsel for the petitioner submits that in the service record of the petitioner his date of birth is wrongly recorded as 01.10.1961 instead of 09.10.1963. The learned counsel further submits that parents of the petitioner were illiterate. In view of that, wrong date of birth was recorded in the school record. The learned counsel further submits that the authority has rejected the application of the petitioner only on the ground that the application is not made within a period of five years of entering the employment. The learned counsel for the petitioner submits that the amendment in the Maharashtra Civil Services Rules is of the year 2008. The same will not have retrospective effect. The learned counsel relies on the judgment

and order of the learned Single Judge of this Court in a case of ***Ashok Vs. Head Master, Z. P High School*** reported in ***2014(6) Mh. L. J. 590***.

The learned counsel for the petitioner submits that the Tahsildar has issued the birth certificate in form no. 14 wherein date of birth of the petitioner was recorded as 09.10.1963. The learned counsel submits that the same ought to have been considered.

2. The petitioner had made application for correction of date of birth for the first time in the year 1993. The petitioner was appointed on 31.07.1989. The another application was made in the year 2008. In the year 2012, the authority had called for the documents. The same were supplied in the year 2016. According to the learned counsel for the petitioner, the order of the authority rejecting the application of the petitioner for correction of date of birth is illegal and not in consonance with the judgment of this Court in a case of ***Ashok Vs. Head Master*** (supra).

3. We have considered the submissions canvassed by the learned counsel for the party.

4. The school leaving certificate issued by the Headmaster of Zilla Parishad school Bhaur, Taluka Devala, Dist. Nashik dated 20.12.2007 records date of birth of the petitioner as 01.10.1961. The another

school leaving certificate issued by the Headmaster of the school at Manur, Taluka Kalwan, Dist. Nashik dated 06.07.1982 records date of birth of the petitioner as 01.10.1961. The SSC certificate issued to the petitioner also records date of birth of the petitioner as 01.10.1961. The petitioner heavily relies upon the birth certificate issued by the Tahsildar in the year 1984 wherein date of birth of the petitioner is recorded as 09.10.1963. In the said certificate it is nowhere stated as to who had given information of the birth of the petitioner. The date of information is also blank. The majority of the columns are blank. The presumption cannot be attached to a birth certificate issued in such a manner. It is only if the birth certificate is issued by following a proper procedure and necessary information is also mentioned, then only presumption is attached to it. Reference can be had to the judgment of the Division Bench of this Court in a case of ***Gangadhar Gonduram Tadme Vs. Trimbak Govindrao Akingire and others*** reported in ***2005(1) Mh. L. J. 94.***

5. In the writ jurisdiction, we are not required to hold an investigation about the correctness of the date of birth of the petitioner. The documents having presumptive value records date of birth of the petitioner as 01.10.1961. We may also not consider the objection that the application is not made within a period of five years, however, on

merits we are not inclined to accept the contention of the petitioner in view of the documents possessing presumptive value.

6. In the light of the above, writ petition is dismissed of. No costs.

( R. G. AVACHAT )  
JUDGE

( S. V. GANGAPURWALA )  
JUDGE

PS.B.