

Shiv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.188 OF 2018

Shalan Shivaji Chavan	... Petitioner
Versus	
The State of Maharashtra & Ors.	... Respondents

Mr. Narendra Bandiwadekar with Vinayak Kumbhar i/b Ashwini Navjyot Bandiwadekar for the Petitioner.
Mr. V. M. Mali AGP for the Respondent-State.

**CORAM : S. V. GANGAPURWALA AND
MADHAV J. JAMDAR, JJ.**

DATED : 7TH JUNE 2022

P.C. :

1. The application of the Petitioner for change of date of birth in service record is negatived.
2. The learned counsel for the Petitioner submits that the Petitioner was appointed on 1st October 1981 as an Assistant Teacher in Respondent No.4 – School and the date of birth was wrongly recorded as 15/10/1956. The Petitioner on 21/02/1983 made application for rectifying, after long slumber eventually the application came to be rejected by the order dated 15/05/2014.

3. Thereafter the Petitioner filed Writ Petition No.6301 of 2014. This Court under the order dated March 23, 2017 set aside the order rejecting application of the Petitioner for change of date of birth in the service record and directed Respondent No.1 to decide the same afresh.

4. The learned counsel for the Petitioner submits that the fresh order is passed rejecting the application without assigning reasons and the ground of delay that was set aside by this Court in earlier Writ Petition has been reiterated in the impugned order. Learned AGP submits that the Respondent No.1 has considered all relevant aspects of the matter and has rightly rejected the Application.

5. We have considered the submissions. We have also gone through the impugned order.

6. Upon perusal of the impugned order, it is manifest that the reasons are not assigned. The only ground for rejection is delay in filing the application for correction of date of birth in the service record. The said ground is set aside by this Court under its order dated March 23, 2017 in Writ Petition No.6301 of 2014. In the said Writ Petition, the Petitioner had challenged rejection of the application for changing the date of birth. The Court while passing the order, specifically observed that the contention of learned AGP that the application was filed beyond the prescribed period of five years, cannot be accepted and Respondent No.1 has not taken into consideration instruction 2 of Rule 38 of the Rules, 1981.

7. The reasons now are considered to be the limb of the principle of natural justice. The reasons depict the application of mind by the concerned Authority passing the order. The order sans reasons cannot be sustained and be deemed arbitrary. Moreover, the ground that has been set aside by this Court in its earlier order is again reiterated while passing the impugned order that depicts non-application of mind of the Authority passing the order.

8. In the light of above, the impugned order rejecting the application of the Petitioner for changing date of birth in the service record is quashed and set aside.

9. Respondent No.1 shall decide the application of the Petitioner for correction of the date of birth in service record afresh after considering the observation of this Court in the present order and the order passed in Writ Petition No.6301 of 2014 dated March 23, 2017. The said application shall be decided expeditiously and preferably within three months from today. The Petitioner may represent herself before the Authority.

10. The Writ Petition is disposed of.

MADHAV J. JAMDAR, J.

S. V. GANGAPURWALA, J.