



{1}

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6834 OF 2025

Smt. Momin Asifa Aliouddin,
Age: 52 years, Occu.: Teacher,
R/o. Zilla Parishad Primary School,
Mirkhel, Taluka & Dist. Parbhani.

... Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.
2. The State of Maharashtra
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai.
3. The Chief Executive Officer,
Zilla Parishad, Parbhani,
4. The Education Officer (Primary),
Zilla Parishad, Parbhani.
5. The Head Master,
Zilla Parishad Primary School,
Mirkhel, Taluka & Dist. Parbhani.

... Respondents

.....

Mr. Shivram Patil, Advocate h/f Mr. Shivsamb N. Janakwade, Advocate
for Petitioner

Mr. S.K. Tambe, Addl. GP for Respondent No.1 – State

.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATED : 11 NOVEMBER, 2025

{2}

ORDER [Per Hiten S. Venegavkar, J.] :-

1. The present writ petition is directed against the communication dated 23.01.2023, issued by respondent No. 4, Education Officer (Primary), Zilla Parishad, Parbhani, rejecting the petitioner's request to correct her date of birth in the service record from 08.11.1969 to 08.11.1971.

2. The petitioner is working as a primary teacher in Zilla Parishad Primary School, Mirkhel. The petitioner contends that the date of birth originally recorded in her school admission and subsequently carried forward into her service record is incorrect and that her correct date of birth is 08.11.1971. The petitioner places reliance upon the publication in the Maharashtra Government Gazette dated 04.05.2022 and upon the order dated 11.10.2022 passed by the learned Chief Judicial Magistrate, Parbhani, in Miscellaneous Application No. 277 of 2022 under Section 13 (3) of the Registration of Births and Deaths Act 1969, directing the authorities to register the petitioner's date of birth as 08.11.1971 and to issue a fresh birth certificate.

3. Learned counsel for the petitioner argued that the impugned decision suffers from a breach of the principles of natural justice, as no opportunity of hearing was afforded to the petitioner. He further contended that in view of the declaration and directions issued by the learned Chief Judicial Magistrate, the respondents were duty bound to

{3}

act upon the documentary evidence and correct the petitioner's service record accordingly. It is submitted that the petitioner came to know about the alleged error in her date of birth only after obtaining her mother's marriage certificate following her demise and that the delay in approaching the authorities is *bona fide* and sufficiently explained.

4. Per contra, learned AGP for respondents No.1 and 2 submitted that the request for correction of date of birth has been made at a belated stage, when the petitioner is nearing retirement. Reliance is placed upon the Government Resolutions dated 24.06.1992 and 03.03.1998 which mandate that any request for change of date of birth in the service record must be made within 5 years of entry into service. The learned AGP contend that the petitioner joined service decades ago and has now approached only when the service tenure is approaching completion. According to the learned AGP, this is impermissible. It is also submitted that the order of the learned Chief Judicial Magistrate under section 13 (3) of the Registration of Births and Deaths Act is merely for the purpose of authorizing registration of birth and issuance of a certificate and does not operate as a binding declaration upon service authorities to alter the service records. The learned AGP relied upon the well settled position that the change of date of birth in service records cannot be permitted on the basis of late acquired evidence, particularly at the fag end of service.

5. Having considered the rival submissions and material placed on record, it is clear that the petitioner has been in service for more than three decades. The service record, including the date of birth, was accepted by her at the time of entry into service. The Government Resolutions governing service conditions expressly provide that any request for correction in date of birth must be submitted within five years from the date of joining service. The petitioner has not fulfilled this requirement. There is no material to show that within the said statutory period, the petitioner had ever raised any grievance regarding the date of birth recorded in the service record. The explanation now tendered, regarding the discovery of documents after the death of the petitioner's mother, does not satisfactorily explain the delay of several decades in seeking correction in the service record.

6. The Hon'ble Supreme Court has consistently held that an employee cannot seek alteration of the date of birth at the fag end of service. In ***Union of India v. Harnam Singh***, (1993) 2 SCC 162, the Hon'ble Supreme Court held that even if there is some evidence suggesting a different date of birth, the same cannot be permitted to be corrected after a long lapse of time or when the employee is nearing retirement. Similarly, in ***State of Maharashtra and Anr. v. Gorakhnath Sitaram Kamble and Ors.***, (2010) 14 SCC 423, it was held that belated

{5}

attempts to change the date of birth cannot be entertained, as they disturb the service structure and seniority. Again, in ***Secretary and Commissioner, Home Department v. R. Kirubakaran***, 1994 Supp (1) SCC 155, the Court observed that a request for correction of the date of birth, if entertained belatedly, would adversely affect administrative certainty and the rights of others in the cadre.

7. Applying the aforesaid principles, the petitioner's case pertaining to correction of her service record in respect of her date of birth after 30 years of her service cannot be accepted as the petitioner has failed to do so in accordance with the statute within the statutory period provided by the aforesaid Government Resolutions which is a policy decision of the Government. Secondly, there is no material placed on record to show as to what efforts were ever made by the petitioner for correcting her date of birth in the service record from the date of her joining. Failure to do so and seeking declaration from this Court at the fag end of her service when the petitioner is approaching her retirement cannot be permitted and hence the submission is rejected.

8. The other submission of the learned advocate for the petitioner, placing reliance on the order passed by the learned Chief Judicial Magistrate, which is passed under section 13 (3) of the Registration of

{6}

Births and Deaths Act, is also not tenable. The order passed by the learned Chief Judicial Magistrate under section 13(3) of the Registration of Births and Deaths Act does not adjudicate rights inter se between the petitioner and the employer nor does it operate as a declaration binding on service records. Such an order only facilitates registration of birth and issuance of a certificate. It does not mandate the alteration of date of birth in service records.

9. The other contention of the petitioner's advocate regarding violation of natural justice is also untenable. The rejection of the request is based on a statutory bar and settled policy. Even if hearing was to be granted to the petitioner, the petitioner could not have overcome the binding effect of the Government Resolutions and binding precedents restricting such belated claim of correction in the service record.

10. In view of the aforesaid discussion, we do not find any illegality or perversity in the order passed by the respondent No.4. The petitioner's request for correction of date of birth in the service record at this advanced stage of service cannot be granted. The petition, being devoid of merits, stands dismissed. No orders as to costs.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE