



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

WRIT PETITION NO. 5394 OF 2025

Pravin S/o Janardhan Yeshwante
Age: 52 years, Occu: Service
R/o Plot No. 9, Navjivan Colony, N-11, Sector-K,
HUDCO, Chh. Sambhajinagar -----PETITIONER

VERSUS

1. Chief General Manager (F & A)
Finance and Accounts Department
Prakash Ganga, 6th Floor, Plot No.: C-19
"E" Block Bandra-Kurla Complex,
Bandra East, Mumbai- 400051
2. Chief Engineer
EHV Project cum O & M Zone
Block No. 201 & 205, Second Floor, MSETCL
New Administrative Building,
Near Harsool T-Point, Jalgaon Road,
Harsool, Aurangabad-431008.
3. Chief Engineer
EHV Project cum O & M Zone
MSETCL, Prakash Sarita, 220 KV
Sub-Station Premises, A-Wing 1st Floor,
Power House, Morshi Road,
Amravati (Maharashtra) (Pin 444603) -----RESPONDENTS
(Orig. Respondents)

Mr. G. M. Jadhav, Advocate for petitioner
Mr. S. V. Adwant, Advocate for respondent Nos. 1 to 3

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**
RESERVED ON : 08th December, 2025
PRONOUNCED ON : 12th December, 2025

JUDGMENT (PER : Hiten S. Venegavkar, J) :-

1. Rule. Rule made returnable forthwith.
2. With the consent of the parties, the writ petition is taken up for final hearing.
3. The petitioner has invoked a writ jurisdiction of this court seeking a direction to the respondent authorities to correct his date of birth in the service record from 01.01.1970 to 26.09.1972, which according to him, is his true and correct date of birth as reflected in the birth certificate and the birth register extract maintained under the Registration of Births and Deaths Act, 1969. The petitioner also challenges the communications dated 18.07.2018 and 14.12.2023, rejecting his request without due application of mind to the governing service regulations.
4. The facts are substantially undisputed. The petitioner was appointed as a "Manager" under order dated 24.04.2008 and joined duties on 20.05.2008. His date of birth was entered as 01.01.1970 based upon the Secondary School Certificate. Within the period of one year, he submitted a representation dated 28.11.2008 to the competent authority enclosing the birth certificate issued by the Aurangabad Municipal Corporation dated 11.07.1986 as well as an extract from the original

birth register maintained under the Registration of Birth and Death Act. During this period, he had also approached this court in Writ petition No. 5845 of 2008 which was disposed of on 06.02.2018, recording that his representation for correction of service record could be decided by the competent authority.

5. The representation was rejected on 18.07.2018 on the ground that the date recorded in the service book matched the SSC and school leaving certificate. Thereafter, in Writ petition No.13493 of 2018, this court on 16.06.2023 directed reconsideration of the petitioner's claim, particularly in light of the birth register extract. Though the petitioner was heard on 07.11.2023, the respondents again rejected his request on 14.12.2023 without examining the statutory documents and without reference to the relevant service regulations. The said rejection was communicated to the petitioner on 02.08.2024, specifically mentioning therein that his representation is rejected and that the date of birth of the petitioner being 01.01.1970 is hereby confirmed.

6. The learned counsel for the petitioner relied upon Clause 9 (2) and the instructions in chapter 2 of the MSETCL Service Regulations, 2012 which permits an employee to seek alteration of date of birth within one year of entry into service and further relied upon Schedule 18 which specifically recognizes birth register extract as the

most reliable and sufficient evidence of age when the name of the child is entered at the time of birth. According to him, the petitioner's representation was not only within the limitation period prescribed by the regulations but also supported by statutory documents which the respondents could not have ignored.

7. The respondents contended that the limitation was six months and further argued that unless the petitioner first corrected the SSC and school leaving certificate by following the secondary school code, the service authorities could not alter the service record. They relied upon Rule 26.4 of the Secondary School Code to contend that date of birth entries in school records cannot be corrected after the student leaves the school.

8. Having examined the record, we find that the contention of the respondents regarding the limitation being six months is thoroughly misconceived. Clause 9(2) of the MSETCL regulations does not prescribe six months as an outer limit for correction of date of birth. The instructions in Chapter 2 unmistakably indicates that normally alteration of date of birth may be sought within one year from the date of entry into the service. No administrative order directing a shorter period in the petitioner's case has been produced before this Court. The petitioner made his representation in November, 2008 that is within 6 months of

joining and certainly within one year. His claim therefore, was squarely within the permitted period.

9. The principle is fortified by the observations of the Supreme Court in **Union of India Vs Harnam Singh** 1993 (2) SCC 162 wherein the Courts held that while belated claims may be rejected on grounds of delay and laches, the limitation prescribed in the applicable service rules governs the inquiry and no stricter period can be judicially intervened. The court interpreted that where the rules prescribe the procedure and outer time limit, the authorities are bound by the same. The respondents insistence on a six months limitation unsupported by any clause of the regulations is contrary to this settled principle. The contention of the respondents that the petitioner must first secure correction in his SCC or school leaving certificate is equally untenable. Such a requirement finds no mention in the service regulations. Service records are governed by the governing service rules and not by the Secondary School Code. Schedule 18 of the MSETCL Regulations explicitly recognizes extract of the birth register as sufficient and conclusive proof where the name of the child was originally entered at the time of the birth. Once the regulations themselves treat birth register entries as conclusive, the respondents could not have insisted upon correction of school records which are secondary sources of proof.

10. In **CIDCO vs. Vasudha Gorakhnath Mandevlekar** (2009) 7 SCC 283, the Hon'ble Supreme Court held that entries in the birth register maintained under the Registration of Birth and Death Act carry a statutory presumption of correctness and must ordinarily be preferred over school records unless specific evidence dislodges their authenticity.

11. Furthermore, the submission of the respondents that the petitioner was bound by the date of birth furnished in the SSC at the time of recruitment cannot be accepted in view of the Hon'ble Supreme Court's pronouncement in **State of Madhya Pradesh v. Premlal Shrivastava** 2011 (9) SCC 664, where the court held that if unimpeachable evidence subsequently demonstrates that an incorrect date of birth was recorded at the time of appointment, such entry does not attain immutability and may be corrected in accordance with the governing service rules. Thus, the respondent's argument of estoppel is without merit.

12. Coming to the sufficiency of evidence, the petitioner has produced the birth certificate issued by the competent authority and the exact extract of the original birth register in which his name was recorded at the time of birth. Both documents are statutory and contemporaneous with the event of birth. They fulfill the standard of proof required under Schedule 18 of the service regulations. The

respondents have not pointed out any discrepancy, tampering or any basis to doubt the authenticity of these documents. The rejection orders do not even advert to the regulatory mandate contained in Schedule 18.

13. The unexplained delay on the part of the respondents in deciding the petitioner's representation spanning from 2008 to 2024 also deserves mention. Despite clear and repeated directions from this Court in earlier rounds of litigation, the respondents persisted in rejecting the petitioner's claim mechanically and without assigning cogent reasons. Such administrative indifference is inconsistent with the principles of fairness in the public administration.

14. In the totality of circumstances, we are satisfied that the petitioner has established that his true date of birth is 26.09.1972 and that the rejection of his request is contrary to the governing service regulations as well as settled legal principles. The petitioner acted within the limitations prescribed, produced unimpeachable statutory evidence and the respondents failed to offer any justification for discarding such evidence.

15. Accordingly, the petition is allowed. The impugned communications dated 18.07.2018 and 14.12.2023 are quashed and set aside. The respondents are directed to correct the date of birth of the

petitioner in the service records by substituting the entry of 01.01.1970 with 26.09.1972 and to carry out all consequential corrections within eight weeks from today.

16. There shall be no orders as to costs.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi