

REVISED

ITEM NO.5

COURT NO.3

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 10090/2017

(Arising out of impugned final judgment and order dated 19/10/2016
in WP No. 5562/2016 passed by the High Court Of Bombay At Nagpur)

REGISTRAR GENERAL, HIGH COURT OF JUDICATURE AT BOMBAY Petitioner(s)

VERSUS

KAILASH S/O GOPIKISAN RATHI AND ANR

Respondent(s)

(with interim relief and office report)

Date : 21/04/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE S. ABDUL NAZEERFor Petitioner(s) Mr. Aniruddha P. Mayee, Adv.
Mr. A. Selvin Raja, Adv.For Respondent(s) Mr. Satyajit A. Desai, Adv.
Ms. Anagha S. Desai, Adv.
Mr. Raheel J. Mirza, Adv.Mr. Shirish K. Deshpande, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed, in terms of the signed order.

[O.P. SHARMA]
AR-CUM-PS[SUMAN JAIN]
COURT MASTER

(Corrected signed order is placed on the file)

Corrected order

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5555 OF 2017
(Arising out of SLP(C)No.10090/2017)

REGISTRAR GENERAL,
HIGH COURT OF JUDICATURE AT BOMBAY

APPELLANT(S)

VERSUS

KAILASH S/O GOPIKISAN RATHI AND ANR

RESPONDENT(S)

O R D E R

Permission to file SLP is granted.

The instant special leave petition arises out of an interim order passed by the Bombay High Court in Writ Petition No.5562 of 2016. The subject matter of dispute in the said writ petition is the correction of the date of birth of the first respondent.

The first respondent is working as District Magistrate I, Nagpur. He sought correction of his date of birth as entered in his service record. The date of birth entered in his service record is 21.4.1957. It appears that sometime after entering the service, the first respondent filed an application for correction of the date of birth on various grounds, the detail of which is not necessary for the present purpose. According to him, his correct date of birth is 27.4.1958. Aggrieved by the same, the above mentioned writ petition came to be filed. In the said writ petition, the first respondent made an interim prayer:

"during the pendency of the instant Writ Petition the effect; operation and implementation of the Order dated 01/09/2014 passed by the Respondent No.1 (ANNEXURE-XII) may kindly be stayed and the Respondent may kindly

be directed to treat 27.4.1958 as date of birth of the Petitioner for all purposes, including in superannuation in the interest of justice"

By the impugned order, the High Court allowed the interim prayer and hence the instant Special Leave Petition.

Leave granted.

Heard learned counsel for the appellant and learned counsel for the respondents.

We are of the opinion that the continuance of the first respondent by an interim order in the service is not called for. The first respondent, if succeeds in the writ petition will still be entitled to receive all financial benefits attached to the office. But in case if the first respondent fails in the litigation he would have imposed himself upon the society and adjudicated matters beyond the permissible limit of the age stipulated under the Rules.

In the circumstances, the appeal is allowed setting aside the impugned order of the High Court.

However regard to the above mentioned facts, we deem it appropriate to request the High Court to dispose of the writ petition itself expeditiously.

.....J.
(J. CHELAMESWAR)

.....J.
(S. ABDUL NAZEER)

New Delhi;
April 21, 2017.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5555 OF 2017
(Arising out of SLP(C)No.10090/2017)

REGISTRAR GENERAL,
HIGH COURT OF JUDICATURE AT BOMBAY

APPELLANT(S)

VERSUS

KAILASH S/O GOPIKISAN RATHI AND ANR

RESPONDENT(S)

O R D E R

Permission to file SLP is granted.

The instant special leave petition arises out of an interim order passed by the Bombay High Court in Writ Petition No.5662 of 2016. The subject matter of dispute in the said writ petition is the correction of the date of birth of the first respondent.

The first respondent is working as District Magistrate I, Nagpur. He sought correction of his date of birth as entered in his service record. The date of birth entered in his service record is 21.4.1957. It appears that sometime after entering the service, the first respondent filed an application for correction of the date of birth on various grounds, the detail of which is not necessary for the present purpose. According to him, his correct date of birth is 27.4.1958. Aggrieved by the same, the above mentioned writ petition came to be filed. In the said writ petition, the first respondent made an interim prayer:

"during the pendency of the instant Writ Petition the effect; operation and implementation of the Order dated 01/09/2014 passed by the Respondent No.1 (ANNEXURE-XII) may kindly be stayed and the Respondent may kindly be directed to treat 27.4.1958 as date of birth

of the Petitioner for all purposes, including in superannuation in the interest of justice"

By the impugned order, the High Court allowed the interim prayer and hence the instant Special Leave Petition.

Leave granted.

Heard learned counsel for the appellant and learned counsel for the respondents.

We are of the opinion that the continuance of the first respondent by an interim order in the service is not called for. The first respondent, if succeeds in the writ petition will still be entitled to receive all financial benefits attached to the office. But in case if the first respondent fails in the litigation he would have imposed himself upon the society and adjudicated matters beyond the permissible limit of the age stipulated under the Rules.

In the circumstances, the appeal is allowed setting aside the impugned order of the High Court.

However regard to the above mentioned facts, we deem it appropriate to request the High Court to dispose of the writ petition itself expeditiously.

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.....J.
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New Delhi;
April 21, 2017.

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Mr. A. Selvin Raja, Adv.

For Respondent(s) Mr. Satyajit A. Desai, Adv.
Ms. Anagha S. Desai, Adv.
Mr. Raheel J. Mirza, Adv.

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(Signed order is placed on the file)