

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

Civil Revision No. 64/2020
Ms Maryam Zulfiqar
Versus
FBISE

Petitioner by: Mr. Sajid Mehmood Ch. Advocate.
Respondent by: Ch. Imtiaz Ahmad, Advocate
Date of Hearing: 19.05.2020.

FIAZ AHMAD ANJUM JANDRAN, J.- Through the instant civil revision petition, the petitioner impugns the judgments and decrees dated 04.12.2019 and 28.10.2019, passed by the learned District Judge and learned Civil Judge 1st Class, Islamabad-West whereby her suit for declaration and permanent injunction seeking rectification in date of birth, was dismissed while appeal met the same fate.

2. Facts, relevant for the disposal of instant civil revision petition are that petitioner filed a suit for declaration and mandatory injunction with the averments that according to Form-B, her actual date of birth was 31.12.2000 but wrongly notified as 31.12.1998 in SSC Certificate issued by the respondent in 2015 which is required to be rectified. The respondent contested the suit by filing written statement wherein they denied the claim of the petitioner on the ground that the entries in their record were made on the basis of information provided by the petitioner herself in her admission form. The learned trial Court on 28.05.2019, out of the divergent pleadings of the parties, framed following issues:-

- i. Whether the plaintiff is entitled to get a decree for declaration and mandatory injunction as prayed for ?OPP
- ii. Whether the plaintiff has got no cause of action to file the instant suit? OPD

- iii. Whether the suit of the plaintiff is based on malafide intention and suit is frivolous, vexatious? OPD
- iv. Whether the defendant is entitled to get special costs under section 35-A of the CPC from the plaintiff? OPD
- v. Relief.

3. In evidence, petitioner got examined one Zareen Akhtar, her special attorney as PW-1 who tendered affidavit Ex.P1 while the documentary evidence comprising special power of attorney Ex.P2, Birth certificate issued by the union council Ex.P3, copy of Form-B Ex.P4, copy of school register Mark-A, result card Ex.P5 and registration card Mark-B were also tendered. On the other hand, the respondent produced copy of registration card Ex.D1 and copy of Admission Form Ex.D2 respectively. The learned trial court after hearing both the sides, dismissed the suit vide judgment and decree dated 28.10.2019. Being dissatisfied with the said judgment and decree, petitioner preferred an appeal but the same was also dismissed vide judgment and decree dated 04.12.2019 hence, the instant civil revision petition.

4. Learned counsel for the petitioner argued that the date of birth of the petitioner in the admission form submitted to the respondent was inadvertently mentioned as 31.12.1998 while her actual date of birth is 31.12.2000; further submits that no service benefits are attached to the said rectification and she being student, just wants to correct the mistake in order to keep the record straight.

5. Learned counsel for the respondent opposed the above submissions and argued that the petitioner herself submitted admission form which was duly signed by the head of the Institution where she was studying at the relevant time and that an affidavit was attached along with the said admission form wherein it was testified that all the particulars of the admission form were correct and true,

therefore, at this belated stage, no rectification could be made as the same would amount to recognize a wrong and open a floodgate of like cases.

6. Heard the learned counsels for the parties and perused the record with their able assistance.

7. The record appended with the civil revision petition shows a document at Page 41, Exhibit P3, i.e. birth certificate issued by the Government of Sindh wherein date of birth of the petitioner is mentioned as 31.12.2000. The said entry had been recorded on 28.03.2011, after more than 10 years of the stated date of birth of the petitioner i.e. 31.12.2000. Ex.P5 Secondary School Certificate carries the date of birth of the petitioner as 31.12.1998 while in birth certificate Ex.P3 it is mentioned as 31.12.2000. It is well settled that where there is a disparity in the date of birth entered in the educational testimonials of a person, and the NIC or birth certificate, credence is to be given to the entry of the date of birth in the educational testimonials, unless there is a cogent and convincing evidence to hold otherwise. In the case of “Muhammad Arshad and another Vs Mian Noor Ahmad and others (2008 SCMR 713)”, credence was given by the Hon’ble Apex Court to the petitioner’s date of birth on his matriculation certificate as compared to his date of birth in his birth certificate and the NIC.

8. Needless to mention that entry in the relevant register of birth certificate is required to be made immediately after the birth of the kid, while in the present case same has been entered after more than 10 years of said birth. In this respect law is very much clear that if an entry in birth certificate is belated in time then same could not be considered as correct and genuine unless some corroborating evidence is available which substantiates the said entry or the documents prepared and formulated before the said entry. It is held by this Court in case of

“Federal Board of Intermediate and Secondary Education through Chairman Vs Azam Ali Khan” (2017 YLR 906) that when birth certificate was not issued within reasonable time after birth, the said entry in birth certificate has to be corroborated by producing in evidence the Register of Births showing the correct date of birth of the person in question.

9. The second document submitted by the petitioner is Mark-A, available at Page 42, which is copy of school register. The said document shows entries regarding the petitioner while she left the school. Through the said document it is not clear that what the date of birth of petitioner was?

10. It is settled principle that strong evidence of unimpeachable character is required to change the date of birth. The Courts have to be vigilant in granting discretionary relief of permanent injunction in case where the plaintiff seeks a change of name or date of birth. Admittedly, no such evidence is available in the case at hand. Even the record keeper of the said record of the birth register maintained by the relevant authority had not been produced as a witness to verify and substantiate the averments contained in the said document i.e. Ex.P3.

11. A student and his/her parents had to be careful and vigilant while mentioning the date of birth at the time of submission of admission form for matriculation examination because the educational certificate issued by the Board on the basis of entries mentioned in admission form goes with the life of a student being an authentic proof of his/her date of birth. Such certificate is accepted as a valuable piece of evidence throughout the career of a student and the Courts attach a high probative value to the said certificate and the date of birth as entered is accepted as almost binding. In case **“Saima Iltaf Vs Principal, Junior Burn Hall Girls College, Abbottabad” (2001 CLC 972)**, it

was held that in order to substantiate the contents of birth certificate, the relevant register where the date of birth is entered has to be produced. In the case at hand, the petitioner's birth certificate was not produced either by the relevant union council or by NADRA or its predecessor institution. This is a material lapse in the petitioner's case which has to be considered seriously.

12. In view of above, the concurrent findings of the two learned courts below are well reasoned and do not call for any interference. Consequently, the instant revision petition is dismissed.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Imran

Announced in open Court on 04-06-2020

JUDGE