

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

C.R.No.18/2018

Federal Board of Intermediate and Secondary Education,  
Islamabad

**Versus**

Farhain Naeem and others

**Date of Hearing:** 16.09.2019

**Petitioner by:** Mir Afzal Malik, Advocate and Mr.  
Mahmood-ul-Hassan, Superintendent  
F.B.I.S.E.

**Respondents by:** Mr. Saeed Ahmad, Advocate for respondents  
No.1 and 2

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**MIANGUL HASSAN AURANGZEB, J:-** Through the instant civil revision petition, the petitioner, Federal Board of Intermediate and Secondary Education, Islamabad, impugns the judgment and decree dated 26.10.2017, passed by the Court of the learned District Judge, Islamabad, whereby the former's appeal against the judgment and decree dated 05.01.2017, passed by Court of the learned Civil Judge, Islamabad, was dismissed. Vide the said judgment and decree dated 05.07.2017, the learned Civil Court allowed respondents No.1 and 2's suit for declaration and mandatory injunction, praying for *inter-alia* a declaration to the effect that respondent No.2's correct date of birth was 24.10.2000 and that his correct name was "*Zaeem Hussain*".

2. Respondent No.2's date of birth entered in the result card of the Annual Examination-2015 issued by the petitioner was 24.10.1998 whereas his name in the certificate for children less than eighteen years of age issued by National Database Registration Authority ("N.A.D.R.A.") was "*Zaeem Hassan*".

3. Learned counsel for the petitioner drew the attention of the Court to respondent No.2's admission form for the Secondary School Examination dated 15.12.2014 and submitted that in the said application form, respondent No.2 had entered 24.10.1998 as his date of birth; that the said admission form contained respondent No.2's affidavit deposing therein that the entries made in the said admission form were correct; that the said admission form had also

been signed by respondent No.2's mother/guardian; that the said admission form had also been signed and stamped by the Principal of respondent No.2's college (Islamabad Model College for Boys, G-10/4, Islamabad); that the said admission form was exhibited before the learned Trial Court; and that respondents No.1 and 2 could not take a position contrary to the one taken by them in the said admission form.

4. Learned counsel for the petitioner further submitted that the birth certificate dated 05.03.2003 on the basis of which the learned Courts below concurrently decreed respondents No.1 and 2's suit could not be relied upon since the Registrar of Births was not produced to give evidence in support of the contents of the said document; that no witness was produced from respondent No.2's college/school in order to testify that respondent No.2's correct date of birth was not 24.10.2000; and that the concurrent judgments and decrees passed by the learned Courts below are contrary to the law laid down by this Court in the case of Federal Board of Intermediate and Secondary Education Vs. Azam Ali Khan (2017 YLR 906). Learned counsel for the petitioner prayed for the revision petition to be allowed.

5. On the other hand, learned counsel for respondents No.1 and 2 submitted that the wrong entry of respondent No.2's date of birth in the admission form was the result of an inadvertent mistake; that respondent No.2's correct date of birth i.e. 24.10.2000 has been correctly recorded in his birth registration certificate (Exh.P/A); that the admission/withdrawal register of O.P.F. Girls College shows respondent No.2's correct name as "*Zaeem Hussain*"; that the registration certificate issued by N.A.D.R.A. (Mark-B) wrongly mentions respondent No.2's name as "*Zaeem Hassan*"; and that the concurrent judgments and decrees passed by the learned Courts below do not suffer from any legal infirmity. Learned counsel for respondents No.1 and 2 prayed for the revision petition to be dismissed.

6. I have heard the contentions of the learned counsel for the contesting parties and perused the record with their able assistance.

7. The record shows that on 19.02.2016, respondents No.1 and 2 filed a suit for declaration and mandatory injunction, praying for *inter-alia* a declaration to the effect that respondent No.2's correct date of birth was 24.10.2000 and that his correct name was "*Zaeem Hussain*". The petitioner contested the said suit by filing a written statement. From the divergent pleadings of the contesting parties, the learned Civil Court framed the issues on 13.07.2016. Respondent No.1 appeared as PW.1 and gave evidence consistent with the facts pleaded in the plaint. Form-B dated 20.09.2003 (Mark-A), Form-B dated 27.04.2013 (Mark-B), Birth Registration Certificate dated 05.03.2003 (Exh.P/A), Annual Examination-2015 Certificate dated 04.07.2015 issued by the petitioner (Exh.P/B) and admission/withdrawal register of O.P.F. Girls College (Exh.P/C) were produced by respondents No.1 and 2's counsel.

8. The representative of the petitioner appeared as DW.1 and produced respondent No.2's admission form as Exh.D/1.

9. Respondent No.2 had submitted his application form for admission in the Matriculation Examination on 15.12.2014. This form was produced by the petitioner's witness as Exh.D/1.

10. The petitioner, in its evidence produced Exh.D/1, which is respondent No.2's admission form dated 15.12.2014 for the Secondary School Certificate (Part-II) Examination. Respondent No.2 and his mother/guardian had signed this form. In this form, respondent No.2's date of birth is stated to be 24.10.1998. This form also contains an affidavit sworn by respondent No.2 deposing that the particulars in the said form were true and correct. This form was also signed and stamped by the Principal of Islamabad Model College for Boys, G-10/4, Islamabad.

11. Now, respondents No.1 and 2 did not dispute the authenticity of Exh.D/1. Learned counsel for respondents No.1 and 2 submitted that the wrong entry of respondent No.2's date of birth in his admission form for the Secondary School Certificate Examination was caused by an inadvertent mistake. In the said admission form (Exh.D/1), respondent No.2's date of birth was not only filled in figures but in words as well. Therefore, it cannot be said that there was a possibility of an error being committed by the petitioner in

recording respondent No.2's said date of birth in his Secondary School Certificate. Since the admission form Exh.D/1 was an admitted document, it deserved due weight and credence, which has not been given to it by the learned Courts below. The learned Courts below misread the evidence by not appreciating that the admission form (Exh.D/1) had not just been signed by respondent No.2, but also by his mother/guardian and the Principal of Islamabad Model College for Boys, G-10/4, Islamabad. The requirement of an endorsement by the head of the institution is to ensure that the entries made in the admission form are correct and as per the school record of respondent No.2. Respondents No.1 and 2 are, therefore, estopped from taking a position contrary to the one taken by them at the time of submission of the admission form for the Secondary School Certificate Examination.

12. It is also well settled that where there is a disparity in the date of birth entered in the educational testimonials of a person, and the National Identity Card or Birth Certificate, credence is to be given to the entry of the date of birth in the educational testimonials unless there is cogent and convincing evidence to hold otherwise. In the case of Mohammad Arshad Vs. Noor Ahmad (2008 SCMR 713), credence was given by the Hon'ble Supreme Court to the petitioner's date of birth on his matriculation certificate as compared to his date of birth on his Birth Certificate and National Identity Card.

13. Strong evidence of unimpeachable character is required to change the date of birth entered in a person's educational testimonials. Courts have to be vigilant and cautious in granting discretionary relief of declaration or permanent injunction in cases where plaintiffs seek a change in their names or dates of birth.

14. A student and his/her parents have to be very careful, alert and vigilant while disclosing the date of birth at the time of submission of forms for the examination of Secondary School Certificate / Matriculation. The Secondary School Certificate issued by the Board of Intermediate and Secondary Education goes with the life of a student as this certificate is the authenticated proof of the student's date of birth. Such a certificate is invariably accepted

as a valuable piece of evidence in proof of the date of birth of the person in question throughout his career, and Courts attach a high degree of probative value to the certificate, and the date of birth as entered in the certificate is accepted as almost binding.

15. A change in the date of birth recorded in matriculation certificate issued by the Board is a serious matter because it involves many consequences and particularly affects the date of retirement etc. In such cases, a Court needs to scrutinize the evidence carefully and interference should be made sparingly and with circumspection. The approach of a Court has to be cautious and not casual.

16. All the documents on behalf of respondents No.1 and 2 were tendered in evidence by their counsel and not by PW.1. In the case of Mst. Shahida Vs. N.A.D.R.A. (2014 MLD 1411), it was held that a party could not rely upon the primary school certificate which had not been produced by the Record Keeper of the school nor a responsible officer of the school to verify the contents regarding the date of birth entered in such a certificate.

17. In the case of Saima Iltaf Vs. Principal, Junior Burn Hall Girls College, Abbotabad (2001 CLC 972), it was held that in order to substantiate the contents of a birth certificate, the relevant register where the date of birth is entered has to be produced. The admission and withdrawal register of the O.P.F. Girls College (Exh.P/C) was not produced by PW.1 but by respondents No.1 and 2's counsel. In the case at hand, no one was produced from respondent No.2's school or from the Capital Development Authority to verify that respondent No.2's date of birth was 24.10.2000 and not 24.10.1998. This is a material lapse in respondents No.1 and 2's case which has not been noticed by the learned Courts below.

18. I am of the view that the learned Courts below have misread the evidence on the record and have not given credence to the law laid down by the Superior Courts especially the judgment in the case of Mohammad Arshad Vs. Noor Ahmad (supra). Therefore, the instant revision petition is partly allowed; the concurrent judgments and decrees dated 05.01.2017 and 26.10.2017, passed by the learned Courts to the extent of holding that respondent No.2's

correct date of birth is 24.10.2000 are set-aside, and consequently the civil suit instituted by respondents No.1 and 2 to the extent of seeking a change in respondent No.2's date of birth recorded in his matriculation certificate is dismissed. Since respondent No.2's name in his matriculation certificate is entered as "*Zaeem Hussain*", and since N.A.D.R.A. has not challenged the said judgments and decrees, they are upheld to the extent of the declaration therein that respondent No.2's correct name is "*Zaeem Hussain*".

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

**ANNOUNCED IN AN OPEN COURT ON 02/10/2019**

**(JUDGE)**

*Qamar Khan\**