

112/18

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE FAISAL ARAB
MR. JUSTICE SAJJAD ALI SHAH

² AFR
CIVIL APPEAL NO. 1286 OF 2018

(Against the judgment dated 14.12.2016 passed
by the Islamabad High Court, Islamabad in Civil
Revision No. 341/2016)

Federal Board of Intermediate and Secondary Education, Islamabad
through its Chairman

...Appellant(s)

VERSUS

Abeer Masood

...Respondent(s)

...

For the appellant(s): Mir Afzal Malik, ASC
Ch. Akhtar Ali, AOR

For the respondent(s): Sh. Riazul Haque, ASC
Syed Rifaqat Hussain Shah, AOR

Date of hearing: 05.11.2019

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JUDGMENT


FAISAL ARAB, J.- The respondent, who is in her early 20's and is a student, filed a suit seeking declaration that her date of birth in the Intermediate Secondary Education Certificate has been wrongly recorded as 17.08.1992 whereas her correct date of birth is 17.08.1994. The date which the respondent seeks to be corrected is also mentioned in her birth certificate, CNIC as well as in Family Registration Certificate issued by NADRA. After recording of the evidence, the suit was decreed. The appellant appealed, which failed and similarly the Civil Revision filed in the High Court also failed, hence this appeal with leave of the Court against concurrent findings of the three courts below.

2. Learned counsel for the appellant argued that the respondent's Intermediate Secondary Education Certificate contains her

date of birth to be 17.08.1992, which she mentioned herself in the admission form, therefore, the same could not have been corrected being against the Rules of the appellant.

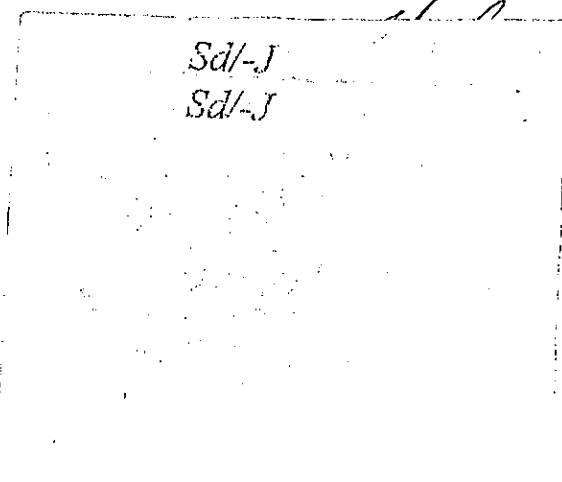
3. We have seen the Family Registration Certificate wherein the names of the respondent's siblings and their date of births are mentioned, CNICs of the respondent and of her elder brother Waqas Masood issued by NADRA, Birth Registration Certificate of Waqas Masood issued by the Capital Development Authority and the Birth Certificate of the respondent issued by the Government of Sindh. On all these documents the date of birth of the respondent is 17.08.1994 whereas the date of birth of her elder brother is 30.12.1992. We have also noticed in the impugned judgment that while dismissing the Civil Revision what prevailed with the learned Judge of the High Court was the deposition of PW-2, the mother of the respondent who produced documents relating to date of birth of the respondent's elder brother Waqas Masood, which is 30.12.1992. If the respondent's date of birth is taken as 17.08.1992, it is quite unbelievable that her elder brother, who was born on 30.12.1992, would have born only four months after her birth and yet NADRA's record would reflect that her brother was elder than her. The documentary evidence produced by PW-2 was not rebutted by the appellant. The High Court also held that no prejudice would be caused to any person if the correction sought by the respondent is made.

4. Though this Court discourages changes in the date of birth which either could be for the purpose of unduly enhancing the tenure of service in any employment or to bring oneself within certain age limit in order to qualify for getting employed or seeking admission in an



institution where age is relevant. However, in the present case no such situation seems to have arisen. If the findings of the three courts below with regard to change of date of birth are allowed to stand, the age of the respondent today would be 25 years of age and if the disputed date is allowed to remain as it is, she would be 27 years of age. The respondent has herself stated before us that she is not an employee of any government or public institution. We would not have allowed the correction had the respondent been in the employment of any public, private or government service and would have taken undue advantage of change in her date of birth, which might prejudice any right of others. No such situation arises in this case. In the circumstances, the date of birth on her birth certificate, CNIC as well as in Family Registration Certificate issued by NADRA which is 17.08.1994 cannot be ignored. Therefore, only in exceptional case that the record must not reflect that the respondent's elder brother was born four months after her birth and to prevent any future dispute amongst her siblings with regard to inheritance and parentage, we are not inclined to interfere with the concurrent findings of all the three courts below.

5. For what has been discussed above, this appeal is dismissed with no order as to costs.



Islamabad, the
Announced on 20.12.2018 by Hon'ble

Approved For Reporting
Khurram

Decd

30/12/19