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IN THE COURT OF MUHAMMAD AYAZ KHAN,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 168/1 of 2019
Date of Institution: 12/09/2019
Date of Decision: 06/02/2020

Gul Khatima s/o Harman Ali

Resident of Village Sarhobi Garhi, PO Kadda Bazar, Tehsil Lower & District Orakzai.....
(Plaintiff)

VERSUS


1. **Chairman, BISE, Kohat.**
2. **Chairman, NADRA, Islamabad.**
3. **Registrar, General NADRA Islamabad.**
4. **District Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

Plaintiff, **Gul Khatima s/o Harman Ali**, has brought the instant suit


for declaration-cum-permanent injunction against the defendants,
referred hereinabove, seeking declaration therein that her correct
date of birth is **15.05.1998** and correct father name is **Harman Ali**,

MUHAMMAD AYAZ
Senior Civil Judge,
Orakzai at Hangu

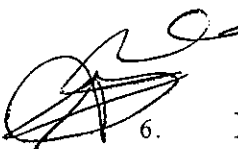
while it has been wrongly mentioned, date of birth as **10.01.1998** in
her CNIC and father name as **Arman Ali** in her SSC certificate by
the defendants, which is incorrect and liable to be corrected. Hence,
the present suit.

Defendants were summoned, out of which defendant No. 2,3 and 4
appeared through attorney namely Syed Farhat Abbas and submitted
written statement which is placed on file, while defendant No.1
proceeded Ex-Parte.

Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether plaintiff has got cause of action.
2. Whether suit of plaintiff is within time.
3. Whether the correct name of the father of the plaintiff is **Harman Ali** while it has been wrongly entered in her SSC certificate as **Arman Ali** and the correct date of birth of the plaintiff is **15.05.1998** while it has been wrongly entered in her CNIC as **10.11.1998**.
4. Plaintiff is entitled to the decree as prayed for.
5. Relief.


MOHAMMAD AMIR
Senior Civil Judge
District Court, Lahore

6. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced two (02) witnesses.

7. PW-1, Yaqeen Ali, is attorney of the plaintiff, who recorded his statement. He stated that correct name of the father of the plaintiff is Harman Ali, which is wrongly mentioned in her SSC certificate as Arman Ali. Secondly, her correct date of birth is **15.05.1998**, while it has been wrongly mentioned in her CNIC as 10.11.1998 by the defendants. He produced and exhibited the copy of his CNIC as Ex.PW-1/1, copy SSC certificate of the plaintiff as Ex.PW-1/2, copy of the CNIC of the plaintiff as Ex.PW-1/3, copy of CNIC of the father of the plaintiff as Ex.PW-1/4 and Form-B of siblings of the plaintiff as Ex.PW-1/6. He was cross examined by the attorney of the defendants.

8. PW-2, Shaidan Ali, is relative of the plaintiff. He stated that the correct name of the father of the plaintiff is Harman Ali and correct

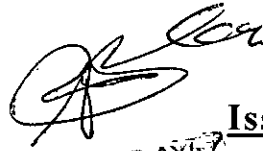
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date of birth is **15.05.1998**. He exhibited copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.

9. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced the registration form of the plaintiff and exhibited the same as Ex. DW-1/1. He is cross examined by the plaintiff.
10. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:

Issue No. 02:


MUHAMMAD AYAZ
Senior Civil Judge,
Qakzai at Hangu

The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However, nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in negative.

Issue No.03:

Perusal of record and evidence present on file reveals that the plaintiff claims her correct date of birth as **15.05.1998** and correct father's name as **Harman Ali**, and she relied upon her SSC certificate, which is exhibited as Ex.PW-1/2 to the extent of her

date of birth while relied upon her CNIC, exhibited Ex.PW-1/3 to the extent of her father name. It is /settled law that whenever there is clash between the CNIC and school certificates, in respect of date of birth, the school certificate shall prevail. In present case, as per Ex. PW-1/2, the correct date of the birth of the plaintiff is **15.05.1998**, which is not even objected by the defendants in the evidence. Secondly, the correct name of the father of the plaintiff is **Harman Ali**, which is evident from the CNIC of the plaintiff, Ex.PW-1/3. The said factum has not been shattered by the defendants in evidence. The same are not rebutted by any documents by the defendants, hence, the said evidence is admissible, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanun-e-Shahadat. Even otherwise, it is the fundamental right of the plaintiff to correct her date of birth in the CNIC and father name in her SSC certificate, which cannot be denied to her. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the date of birth of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth is corrected it would not affect the right of any third person. Interestingly, as far as the correct name of the father of the

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plaintiff is concerned, it is noticed that there is spelling mistake in the present name of the father of the plaintiff. Instead of **Harman Ali**, defendants have written **Arman Ali**, which shows that defendants have missed the letter "H" in the name of the father of the plaintiff. The same is clerical mistake, which can be corrected at any stage by the defendants even without intervention of the court.

Hence, the issue in hand is decided in affirmative.

Issue No.1&04:

Both issues are taken together. For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

The issues are decided in positive.

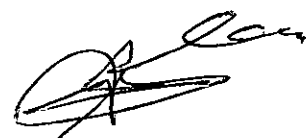
Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record and issue CNIC to the plaintiff with correct name of his father as **Harman Ali** and correct the date of birth as **15.05.1998**. Parties are left to bear their own costs.

File be consigned to the record room after its completion.

Announced

06/02/2020




(Muhammad Ayaz Khan)

Senior Civil Judge,
Orakzai at Baber Mela

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CERTIFICATE

Certified that this judgment of mine consists **06** (six) pages, each has been checked, corrected where necessary and signed by me.



(MUHAMMAD AYAZ KHAN)

Senior Civil Judge,
Orakzai (at Baber Mela).