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IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 327/1 of 2020
Date of Institution: 05/09/2020
Date of Decision: 02/03/2021

Sulaiman s/o Akbar Jan

Resident of Badaan Section Mala Khel Sub Section Aziz Khel, Tehsil Upper &
District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, BISE, Kohat.**
2. **Head Teacher of Govt Primary School Gulbagh Hangu.**
3. **Principal of Centennial Model High School, Hangu.**

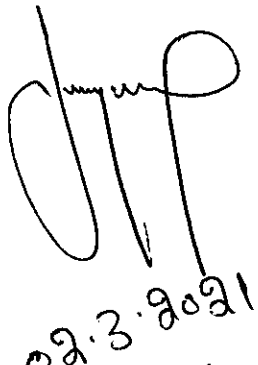
(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

02.03.2021

Brief facts of the case in hand are that the plaintiff, **Sulaiman s/o Akbar Jan**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his correct date of birth is **05.03.2000** while defendants have wrongly mentioned the same in their record as 05.03.1999, which is incorrect and liable to be corrected. That date of birth of Muhammad Anas, brother of the plaintiff in his educational record is 20.08.1998 while date of birth of plaintiff recorded in his education record is 05.03.1999. Thus the difference between the age of plaintiff and his brother is 07 months only which is unnatural gap between the age of two brothers. That defendants were repeatedly asked to correct the


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date of birth of plaintiff but they refused. Hence, the present suit.

Defendants were summoned, defendant No. 2 and 3 were proceeded ex-parte, due to non-appearance before the court while Defendant No.1 appeared through legal representative and submitted written statement, wherein he contested the suit of plaintiff on various grounds.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether the correct date of birth of the plaintiff is "05.03.2000" while defendants have wrongly mentioned the same as 05.03.1999 in their record?
3. Whether plaintiff is entitled to the decree as prayed for?
4. Relief.

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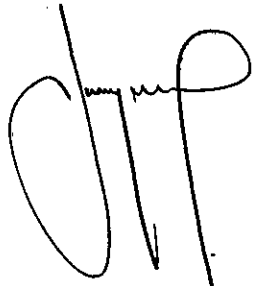
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5. Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced his witnesses as PW-1 to PW-2.
6. In rebuttal legal representative for the defendant No.1 stated before the court that he does not want to produce any evidence rather he relies on the matric DMC and Certificate of the plaintiff already exhibited.
7. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
8. My issues wise findings are as under:

Issue No.02:

Plaintiff contended in his plaint that his correct date of birth is **05.03.2000** but inadvertently the same was recorded as **05.03.1999** in the record of defendants. Hence, the record is liable to be corrected.

Plaintiff in support of his contention appeared as PW-1, who repeated the contents of plaint in his examination in chief and stated before the court that his correct date of birth is **05.03.2000** but the same has been wrongly mentioned in his educational record as **05.03.1999**, as result of which there is unnatural gap in age of plaintiff and his brother. He produced his Matric DMC and Matric Certificate as Ex.PW-1/1 and Ex.PW-1/2. He also produced the Matric DMC of his brother as Ex.PW-1/3. PW-2, Akbar Khan, who is father of plaintiff stated in his examination in chief that correct date of birth of the plaintiff is **05.03.2000**. He produced and exhibited his CNIC as Ex.PW-2/1.


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PW-1 to PW-2 were subjected to cross examination but nothing substantial was brought on record which could have shattered their testimony rather they remained consistent regarding the facts uttered by them in their examination in chief. Their testimony is also corroborated by the Matric DMC of brother of the plaintiff produced by PW-1 as Ex.PW-1/3, wherein, the date of birth of Muhammad Anas (Plaintiff's

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brother) has been recorded as **20.08.1998** while the plaintiff's date of birth as per Educational record is **05.03.1999**, which shows that the age gap between the plaintiff and his elder brother is only 07 months. The said difference in age of plaintiff and his brother is unnatural and the same is not appealable to any prudent mind. Nothing in rebuttal was produced by defendants. So, the oral and documentary evidence produced by the plaintiff establishes that the correct date of birth of the plaintiff is **05.03.2000**. The incorporation of date of birth of the plaintiff as **05.03.1999** in the record of defendants appears to be a mistake. Hence, the issue No. 2 is decided in positive.

Issue No. 01 & 03:

These issues are taken together. For what has been held in issue No. 2, 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 by incorporating the date of birth of the plaintiff as **05.03.2000** in their record. Parties are left to bear their own costs.

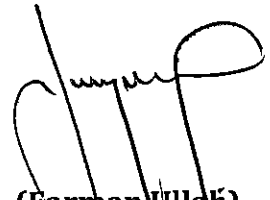

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9. File be consigned to the record room after its completion and compilation.

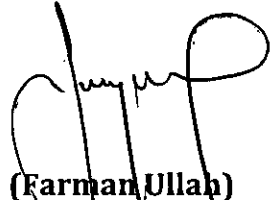
Announced
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CERTIFICATE

Certified that this judgment of mine consists 05 (five) pages (including this page), each has been checked, corrected where necessary and signed by me.



(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).
FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela



(Farman Ullah)
Senior Civil Judge,
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