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

Civil Suit No. 336/1 of 2020
Date of Institution: 30/09/2020
Date of Decision: 09/03/2021

Hazrat Ullah s/o Muhammad Kalam

Section Mishti, Sub Section Haider Khel Jalaka, Tehsil Central & District
Orakzai... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA Hayatabad KP.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

09.03.2021

Brief facts of case in hand are that the plaintiff, **Hazrat Ullah s/o Muhammad Kalam**, 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 as per his educational record is **01.01.2002** while defendants have wrongly mentioned the same in their record as **01.07.1994**, which is incorrect and liable to be corrected. That he repeatedly asked defendants to correct his date of birth by issuing CNIC but they refused. Hence, the present suit.

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Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, wherein they 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 "01.01.2002" while defendants have wrongly mentioned the same as 01.07.1994 in his CNIC?
3. Whether plaintiff is entitled to the decree as prayed for?
4. Relief.
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-04.
6. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC processing form of plaintiff and family tree as Ex. DW-1/1 to Ex. DW-1/2.

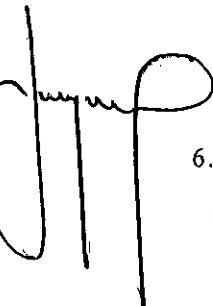
After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

8. My issues wise findings are as under:

Issue No.02:

Plaintiff contended in his plaint that his correct date of birth as per his educational record is 01.01.2002 but inadvertently the same was recorded as 01.07.1994 in NADRA record. Hence, the record is liable to be corrected.

Plaintiff in support of his contention has appeared as PW-1 and he repeated the contents of plaint in his examination in chief. He also produced his Matric DMC as

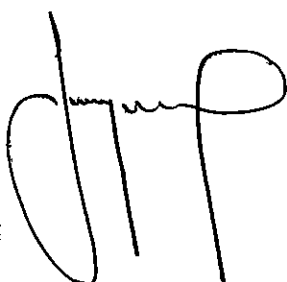

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Ex.PW-1/1 and birth certificate as Ex. PW-1/2. During cross examination stated that CNIC for the first time was issued to him in a year 2012. He admitted his signature on CNIC processing form and stated that the said form was duly attested by the Malik, Tehsildar and APA. PW-2 and PW-03 stated in their examination in chief that correct date of birth of plaintiff as per his school record is 01-01-2002 and he is unmarried. PW-04 is the record keeper of govt; primary school Khowa Stori Khel and he produced the relevant page of register for admission and withdrawl as Ex.PW-4/1 and stated that as per school record date of birth of plaintiff is 07-06-1999.

On other hand DW-01 stated in his examination in chief that CNIC was issued to the plaintiff for a first time in year 2012. He produced the CNIC processing form of plaintiff as Ex.DW-1/1.

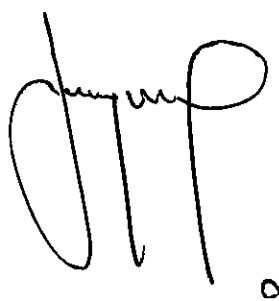
From the analysis of available record, it is evident that the entire claim of plaintiff regarding his date of birth is based on his educational record as it is the contention of plaintiff that his correct date of birth as per educational record is 01-01-2002 but defendants have wrongly entered the same in his CNIC as 01-07-1994. The statement of PW-02 and the PW-03 also revolve around the school record of plaintiff as they stated in their examination in chief that correct date of birth of plaintiff as per school record is 01-01-2002 but their testimony is negated by the school record produced by the PW-04 as Ex.PW-4/1. In Ex.PW-4/1, which is the relevant page of register for admission and withdrawl, the date of birth of plaintiff has been recorded as 06-04-1999. Similarly, the birth certificate of plaintiff Ex.PW-1/3, allegedly issued by the Headmaster GHS Khowa Stori Khel is also contradictory


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with the register for withdrawal and admission Ex.PW-4/1 as in Ex.PW-1/3 the date of birth of plaintiff has been recorded as 01-01-2002 while as per Ex.PW-4/1 the date of birth of plaintiff is 06-04-1999. So, the testimony of PW-02, PW-03 and Ex.PW-1/3 are in conflict with the Ex.PW-4/1. Being such a position the testimony of PW-2, PW-03 and authenticity of Ex.PW-1/3 is of no worth as it has been badly shattered by the Ex.PW-4/1. Even the claim of plaintiff regarding his date of birth as 01-01-2002 is also negated by the Ex.DW-1/1 and admission of PW-1. From Ex.DW-1/1 and admission of PW-01 it is evident that plaintiff applied for the issuance of CNIC for the first time in a year 2012 and which was issued in the same year. If the date of birth of plaintiff was 01-01-2002, then how he applied for issuance of CNIC in a year 2012 at the age of ten years? It is not appealable to a prudent mind and common sense that a person at the age of ten years can apply for issuance of CNIC rather the apply of plaintiff for CNIC in year 2012 itself suggests that plaintiff at that time was a major person and not at age of ten years.



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Though the date of birth of plaintiff has been recorded in his Matric DMC Ex.PW-1/1 as 01-01-2002 yet it is evident from the record that plaintiff appeared as a private candidate in his matric examination and date of birth recorded by him in examination form was not in accordance with his school record rather he has concealed his date of birth recorded in his school record. Being such a position EX.PW-1/1 cannot be considered and relied as an authentic document regarding the date of birth of plaintiff. So, the available record does not establish that the correct date of birth of plaintiff as 01-01-2002. Hence, the issue is decided in negative.

Issue No. 01 & 03:

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These issues are taken together. For what has been held in issue No. 2, this court is of the opinion that plaintiff has got neither cause of action nor he is entitled to the decree as prayed for.

Both the issues are decided in negative.

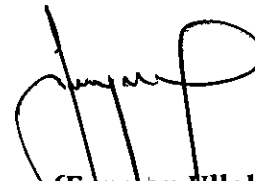
Relief:

As sequel above discussion, it is held that plaintiff failed to prove his stance through cogent, reliable and confidence inspiring evidence. Hence, the suit of plaintiff is dismissed. No order as to costs.

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

Announced

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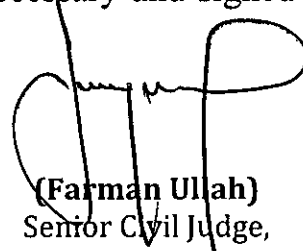


(Farman Ullah)
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CERTIFICATE

Certified that this judgment of mine consists of 05 (five) pages, each page 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