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

Civil Suit No. 266/1 of 2020
Date of Institution: 25/02/2020
Date of Decision: 05/07/2021

Amir Nawaz s/o Muhammad Umar

Resident of Qoam Ali Khel, Tapa Emal Khel, Shah Kali Khel, PO Ghiljo Tehsil
Upper & District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, BISE, Kohat.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

05.07.2021

Brief facts of the case in hand are that the plaintiff, **Amir Nawaz s/o Muhammad Umar**, 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 **14.01.2000** while defendants have wrongly mentioned the same in their record as 14.03.1996, which is incorrect and liable to be corrected. That defendant was repeatedly asked to correct the date of birth of plaintiff but he refused. Hence, the present suit.

Defendant was summoned but initially no one appeared on behalf of defendant, hence proceeded ex-parte on 21-07-2020 but later on defendant submitted an application for


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setting aside ex-parte proceeding, which was accepted and ex-parte proceedings were set aside.

Defendant contested the suit of plaintiff by submitting written statement, wherein, the suit of plaintiff was objected 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 "14.01.2000" while defendants have wrongly mentioned the same as 14.03.1996 in their record?
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-4.

6. In rebuttal defendant produced Shaheen Muhammad, representative as DW-1.
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 14.01.2000 but inadvertently the same was recorded

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as 14.03.1996 in the record of defendant. 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. He produced his school leaving certificate as Ex.PW-3/2 and his form B as Ex.PW-3/3 and stated that his father has wrongly entered his date of birth and of his brother namely Irfan Ullah. He also stated that the date of birth of his brother namely Irfan Ullah was later on corrected as 23.01.2001. PW-2, Muhammad Umar, who is father of plaintiff stated in his examination in chief that correct date of birth of the plaintiff is 14.01.2000 but it was wrongly entered in his matric DMC by defendant. He produced and exhibited his CNIC as Ex.PW-2/1. PW-03, Khan Shah, is the uncle of plaintiff. He also repeated the same facts as uttered by PW-02. PW-04, Jalil Akbar, who is the teacher of Islamia Public High School Zargari stated in his examination in chief that plaintiff was their regular student and as per school record the date of birth of plaintiff is 14.01.2000. He produced the relevant page of register for admission and withdrawal as Ex.PW-4/1.

The perusal of Ex.PW-4/1 depicts that date of plaintiff has been recorded as 14.01.2000 in his school record. Similarly, PW-01 to PW-03 also categorically stated in their

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examination in chief that correct date of birth of the plaintiff is 14.01.2000. PW-01 to PW-03 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. The testimony of PWs and school record Ex.PW-4/1 corroborate each other and there is nothing in rebuttal. So, the oral and documentary evidence produced by the plaintiff establishes that the correct date of birth of the plaintiff is **14.01.2000**. The incorporation of date of birth of the plaintiff as **14.03.1996** 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 also 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

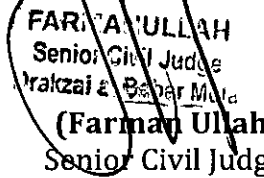
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plaintiff as 14.01.2000 in their record. Parties are left to bear their own costs.

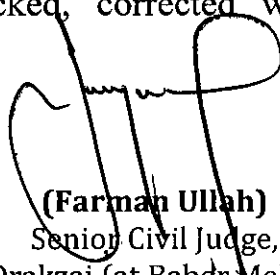
9. File be consigned to the record room after its completion and compilation.

Announced
05/07/2021


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

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