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IN THE COURT OF REHMAT ULLAH WAZIR,
CIVIL JUDGE-I, ORAKZAI AT BABER MELA

Civil Suit No. 88/1 of 2021
Date of Institution: 06/05/2021
Date of Decision: 28/10/2021

Muhammad Ilyas S/O Wahid Ali
R/O Qoum Ali Khel, Tappa Merwas Khel, Village Gaal, P/O Ghiljo, Tehsil
Upper, District Orakzai. (Plaintiff)

VERSUS

**Board of Intermediate and Secondary Education, Kohat through its
chairman.**

(Defendant)

**SUIT FOR DECLARATION, CUM PERPETUAL AND
MANDATORY INJUNCTION**

SUMMARY JUDGEMENT:

28.10.2021

1. Brief facts of the case in hand are that the plaintiff, **Muhammad Ilyas**, has brought the instant suit for declaration cum perpetual and mandatory injunction against the defendant, referred hereinabove, seeking declaration therein that his correct date of birth is **08.05.2004** according to his parents, while it has been wrongly mentioned as 08.05.2002 by the defendant in his record with respect to the plaintiff while the date of birth of his brother namely Waqar Ali according to his School and Matric record is 13.02.2002, thus, there is an unnatural gap of about 03 months approximately between the dates of birth of the plaintiff and

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his brother, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendant was repeatedly asked to correct the date of birth of plaintiff but he refused, hence, the instant suit.

2. Defendant was summoned, who appeared through their legal advisor namely Shaheen Muhammad advocate, who submitted written statement.
3. During the scheduling conference within the meaning of order IX-A of CPC, it was revealed that the matter involved in the instant case is very petty in nature, which can be decided through summary judgement as per relevant record. To this effect notice was given to the parties that why not the case in hand be decided on the basis of available record without recording lengthy evidence, as the primary aim and objective of Amended Management Rules in CPC is, "to enable the court to-

- a. Deal with the cases justly and fairly;
- b. Encourage parties to alternate dispute resolution procedure if it considers appropriate;
- c. Save expense and time both of courts and litigants; and
- d. Enforce compliance with provisions of this Code."

The relevant school's recordkeeper was summoned and the one Maqsood Ali, SCT, GHSS, Khadizai, Kohat appeared as CW-01, who produced Admission and Withdrawal Register and School Leaving Certificate, of the brother of the plaintiff

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namely Waqar Ali, the copies of which are Ex.CW-1/1 and Ex.CW-1/2 respectively and that according to these documents, the date of birth of brother of the plaintiff is 13.02.2002.

Learned counsel for plaintiff and legal advisor for defendant heard and record gone through.

It is pertinent to mention here that on 26.08.2021, the counsel for the plaintiff submitted an application for correction in the plaint w.r.t the dates of birth of the plaintiff and his brother as 08.05.2002, that of the plaintiff and 13.02.2002, that of the brother of the plaintiff namely Waqar Ali. The same was noticed to the defendant on the same date. Today, the same was also argued, resultantly accepted and Muharrir of the court is directed to make corrections in the plaint as per the application of the plaintiff.

Record reveals that plaintiff through instant suit is seeking correction of his date of birth to the effect that his correct date of birth is **08.05.2004**, while it has been wrongly mentioned as 08.05.2002 by the defendant in his record with respect to the plaintiff while the date of birth of his brother namely Waqar Ali according to his School and Matric record is 13.02.2002, thus, there is an unnatural gap of about 03 months approximately between the dates of birth of the

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plaintiff and his brother, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. The plaintiff was directed to produce original School Leaving Certificate and Admission & Withdrawal Register of his brother which he accordingly produced through the relevant Record Keeper. The School Leaving Certificate and Admission & Withdrawal Register of his brother reveal that the date of birth of his brother is 13.02.2002, thus, there is only a gap of about 03 months in the age of the plaintiff and his brother, which is very unnatural and impossible. So, the School Leaving Certificate and Admission & Withdrawal Register of the brother of the plaintiff clearly negate the incorporation of the date of birth of the plaintiff as 08.05.2002 in the record with the defendant. Further, there is no countered document available with the defendant to rebut the documents produced by the plaintiff in support of his stance. Hence, in these circumstances, the said documents are admissible and reliance is placed on it and is sufficient to decide the fate of the case and no further evidence is required to be produced by the parties. So, the available record clearly establishes the claim of the plaintiff.

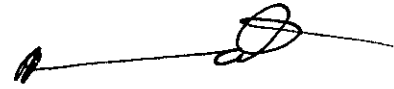
5. Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A

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of CPC, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendant is directed to correct the date of birth of plaintiff as **08.05.2004** in his record.

6. Parties are left to bear their own costs.
7. File be consigned to the record room after its necessary completion and compilation.

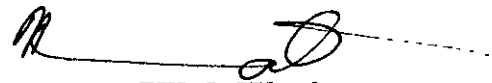
Announced
28.10.2021



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CERTIFICATE

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



(Rehmat Ullah Wazir)
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Orakzai (at Baber Mela)