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**IN THE COURT OF SAMI ULLAH,
CIVIL JUDGE-I, ORAKZAI AT BABER MELA**

Civil Suit No. 52/1 of 2023
Date of Institution: 10/10/2023
Date of Decision: 28/11/2023

Nadia Batool D/O Malik Ashtar

R/O Qoam Sepoy, Tappa Meta Khan Khel, Palosi, PO Khadizai, Tehsil Lower,
District Orakzai.

.....(Plaintiff)

VERSUS

Board of Intermediate and Secondary Education, Kohat.

..... (Defendant)

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

**SUMMARY JUDGEMENT:
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1. Brief facts of the case in hand are that the plaintiff, **Nadia Batool** has brought the instant suit for declaration cum perpetual and mandatory injunction against the defendant, referred hereinabove, seeking declaration therein that her correct date of birth is **18.01.2002** according to her birth registration certificate and Form "B", while it has been wrongly mentioned as **04.09.2003** by the defendants in their record i.e. Matric Certificate/DMC with respect to the plaintiff. Similarly, the date of birth of sister of plaintiff (**Kiran Zahra**) is **20.11.2003**. Thus, there is un-natural gap of **02 months** between the age of plaintiff and her sister, which is

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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. Defendants were summoned, who appeared through their legal advisor namely Mr. 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 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."*

4. Arguments of both the parties on summary notice were heard. After keeping in consideration available record on file and arguments of the learned counsels, the court proceeded with summary proceedings in the instant case.

5. The plaintiff produced two witnesses in her favour who recorded the statements and testified that the correct date of birth of the plaintiff is **18.01.2002**.

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6. Abbas Raza who is attorney of plaintiff and recorded his statement as PW-1, and stated that her correct date of birth is **18.01.2002**. He further stated that there is unnatural gap of 02 months between the age of plaintiff and sister of the plaintiff namely Kiran Zahra. His Power of attorney and copy of his CNIC, and Birth Registration Certificate, DMC and Form B of the plaintiff, are Ex.PW-1/1 to Ex.PW-1/5. Nothing incriminating against the stance of the plaintiff were recorded in cross examination of the said PW.

7. Malik Ashtar who is the father of plaintiff and recorded his statement as PW-02, and stated that the correct date of birth of the plaintiff is **18.01.2002**, but defendant has wrongly mentioned as 04.09.2003 in school record of plaintiff. He further stated that there is unnatural gap of 02 months between the age of plaintiff and his daughter namely Kiran Zahra. Copy of his CNIC is Ex.PW-2/1. Nothing incriminating against the stance of the plaintiff were recorded in cross examination of the said PW.

8. Legal advisor of Kohat Board appeared as DW-01. He placed his reliance on the documents issued by Board of Intermediate and Secondary Education, Kohat.

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


10. Record reveals that plaintiff through instant suit is seeking correction of her date of birth to the effect that her correct date

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of birth is **18.01.2002**, while it has been wrongly mentioned as 04.09.2003 by the defendant in his record with respect to the plaintiff. Furthermore, there is no counter document available with the defendant to rebut the document produced by the plaintiff in support of her stance. Hence, in these circumstances, the exhibited 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. Furthermore, there is unnatural gap in age of the plaintiff with her sister.

11. Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A 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 **18.01.2002** in their record.
12. Parties are left to bear their own costs.
13. File be consigned to the record room after its necessary completion and compilation.

Announced
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CERTIFICATE

Certified that this judgment consists of 04 (Four) pages, each has been checked, corrected where necessary and signed by me.



Sami Ullah
Civil Judge/JM-I,
Orakzai (at Baber Mela)