

IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 74/1 of 2024.
 Date of Institution: 07.06.2024.
 Date of Decision: 24.07.2024.

*Rizwan Ullah S/O Abdul Wali Khan, R/O Qaum Ali Khel, Tappa
 Shawas Khel, Tehsil Upper, District Orakzai*
 (Plaintiff)

VERSUS

1. Chairman Kohat Board.
2. Chairman NADRA, Islamabad.
3. Record Keeper, Government primary school No. 2, Speen
 Khawray, District Hangu.
4. Record Keeper, Government High School Speedar, Upper
 Orakzai.

(Defendants)

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

JUDGEMENT:

24.07.2024

1. Plaintiff Rizwan Ullah has brought the instant suit against defendants Chairman Kohat Board and 03 others for declaration-cum-perpetual and mandatory injunction to the effect that his correct date of birth according to his admission and withdrawal register, Government Primary School No. 2, Hangu is 02.03.2005, but the same has been wrongly entered in his record with the defendants as 02.03.2007. He alleged that the defendants were asked time and again for correction of date of birth of the plaintiff, but they refused to do so, hence, the present

Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their

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 authority letter and written statement, while the defendant No. 4 submitted cognovit. Later on, defendants No. 1 & 3 remained absent, hence they are placed and proceeded ex-parte.

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

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the correct date of birth of the plaintiff is 02.03.2005 and the defendants have wrongly entered the same as 02.03.2007 in their record?*
3. *Whether plaintiff is entitled to the decree as prayed for?*
4. *Relief?*

4. Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

5. **PW-01:** Abdul Qadir, relative of plaintiff appeared as PW-01. He supported the stance of the plaintiff. Copy of his CNIC is Ex. PW-1/1.
6. **PW-02,** is the statement of the Rizwan Ullah, plaintiff himself. He produced the following;

a. Ex. PW-2/1: Copy of Form B.

b. Ex. PW-2/2: Copy of DMC.

On the other hand, Incharge/record keeper appeared and recorded his statement as DW-01. He produced admission & withdrawal register, original seen and returned while copy retained and exhibited as Ex. DW-1/1. He also exhibited his cognovit as Ex. DW-1/2. He also stated that if suit of plaintiff is decreed in his favour, he has got no objection while

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representative for NADRA, Irfan Hussain recorded his statement as DW-02 who produced family tree Ex. DW-2/1.

After closing of evidence of the parties, arguments of the learned counsel for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

8. The plaintiff alleged that his correct date of birth according to his admission and withdrawal register, Government Primary School No. 2, Hangu is 02.03.2005, but the same has been wrongly entered in his record with the defendants as 02.03.2007.

9. During the course of evidence, PW-02 plaintiff himself produced and exhibited a copy of his Form B issued by defendant No. 2 and School leaving certificate issued by defendant No. 4 as per which the date of birth of plaintiff is correctly recorded as 02.03.2005. On the other hand, defendant No. 4 appeared along with school record of the plaintiff and recorded his statement as DW-01 and submitted cognovit in favour of plaintiff. He produced original admission & withdrawal register in respect of date of birth of plaintiff and exhibited the copy of the relevant page of the said register. As per which, correct date of birth of plaintiff is recorded as 02.03.2005 at serial No. 47. He further stated that he has

no objection if suit of the plaintiff is decreed in his favour as prayed for, he has got no objection.

10. The plaintiff will suffer in his practical life if correction in his record with the defendants is not made in accordance with his authentic date of birth mentioned in his Form B as well as in his admission

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withdrawal register Ex. DW-1/1. The plaintiff is neither government employee nor such correction will damage the right of any third person. Furthermore, there is nothing in rebuttal from the defendants side except the impugned matric certificate, according to which the plaintiff has passed his matric in session 2023 annual-I and soon after issuance of the said DMC, the instant suit has been brought which is well within time and the admission and withdrawal register being in line with the Nadra record is also prepared prior to the matric certificate which gives strength to the evidence of the plaintiff, therefore, in view of what has been stated above, the correct date of birth of plaintiff is considered as 02.03.2005 instead of 02.03.2007. Issue is decided in positive.

Issue No. 01 & 03:

Both these issues are interlinked, hence, taken together for discussion.

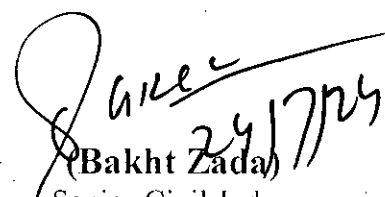
11. As sequel to my findings on issue No. 02, the plaintiff has proved through cogent evidence that his correct date of birth is 02.03.2005 instead of 02.03.2007. Issue No. 01 & 03 are decided in positive.

RELIEF:

12. As sequel to my above issue-wise findings, the plaintiff proved his case through cogent evidence, therefore suit of the plaintiff is hereby decreed as prayed for with no order as to cost.

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

Announced
24.07.2024


(Bakht Zada)
Senior Civil Judge,
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CERTIFICATE

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

Bakht Zada
24/7/24

(Bakht Zada)
Senior Civil Judge,
Orakzai at Baber Mela