JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

R.F.A No. 03 of 2021

Samia Khan

Versus

Federal Board of Intermediate and Secondary Education, Islamabad

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Date of Hearing : 24.02.2021
Appellant by : Ms. Fatima Tu Zara Butt, Advocate.
Respondent by: Mr. Mir Afzal Malik, Advocate.

BABAR SATTAR, J.- The appellant is aggrieved by judgment and decree dated 27.11.2020 whereby the learned Civil Judge 1st Class, Islamabad dismissed the suit filed by the appellant for correction of her date of birth in the record of the respondent.

2. Learned counsel for the appellant submits that the correct date of birth of the appellant is 19.12.1987 as reflected in the record of National Database and Registration Authority (**NADRA**) as well as her domicile, CNIC, passport, driving license, degrees and testimonials issued by her college and university. That the appellant's birth form was issued on 18.03.1993 and reflected her correct date of birth as 19.12.1987 as opposed to 05.11.1988 as recorded in her Secondary School Certificate (SSC) issued by the respondent. That the trial court failed to appreciate that the birth form which was duly exhibited before the trial court was issued in

1993 and prior in time to the issuance of the SSC on 09.10.2004. That the appellant sought to have her university degree verified and certified by the Higher Education Commission (HEC), which refused to provide the verification on the basis that the date of birth on the university degree did not match the date of birth on the SSC. That as all her testimonials reflect the correct birth as provided in her domicile, CNIC, driving license and passport, the appellant reached out to the respondent to have date of birth corrected, which refused to do so, and consequently the appellant filed a suit to have the date of birth on the SSC corrected. The suit was dismissed on the misconceived basis that the SSC was issued prior in time to the other documents that the appellant relies on such as her domicile, CNIC, driving license, passport etc. That the trial court erred in not considering that her birth form was issued in 1993 much earlier in time than the SSC, which was issued in 2004. That the appellant is an independent consultant and not in government employment and she is seeking correction of her date of birth which makes her older on paper as opposed to the date reflected on her SSC and consequently no malice or ill-motive can be attributed to her. The learned counsel relied on University of the Punjab, Lahore v. Muhammad Aslam Bora, Advocate (PLD 1988 Lahore 658), Federal Board of Intermediate and Secondary Education v. Abeer Ahmed (2017 CLC 1085), Board of Intermediate and Secondary Education, Lahore v. Akbar Ali (2017 YLR 1485), Secretary, Federal Board of Intermediate and Secondary Education, Islamabad v. Suriya Bano (2019

YLR 2354) and Federal Board of Intermediate and Secondary Education v. Abeer Ahmed (2020 PLC(CS) 386).

3. Learned counsel for the respondent, on the other hand, only argued that the suit was barred under Article 120 of the Limitation Act, 1908, as the time prescribed for correction of mistake in a document is six years and as the SSC was issued on 09.10.2004 and the suit was filed on 17.10.2019, it was barred by time. In support of his contention, he relied on Abdul Khaliq and another v. Maulvi Muhammad Noor and others (PLD 2005 S.C 962), Board of Intermediate and Secondary Education through Chairman v. Javed Iqbal Bajawa (2005 YLR 2114) and Muhammad Arshad v. Noor Ahmed (2008 SCMR 714).

4. The birth form issued on 18.03.1993 and exhibited before the learned trial court reflects that the date of birth of the appellant is 19.12.1987. Such date of birth is also consistent with the record maintained by NADRA and all other documents issued to the appellant such as her domicile, CNIC, driving license, passport etc. The appellant seems to be in a quandary as the contradiction between her date of birth on her SSC and the rest of her testimonials and documents continues to raise a cloud of suspicion regarding the authenticity of such testimonials and documents and her actual date of birth. In view of unfortunate prevalence of fake degrees most employers and even universities require verification of degrees by HEC. Contradiction in the date of birth between educational testimonials or between educational

testimonials and other identity documents of a person raises a red flag and can adversely affect one's pursuit of educational and employment opportunities.

5. It also strains credulity that the appellant would falsely seek to project herself to be older than she actually is. It is a prevalent practice that efforts are made by those in public service to project themselves as being younger in age by seeking correction in their date of birth in order to prolong the period of service in public employment which prescribes a mandatory superannuation age. The case before this Court is the reverse and the appellant is also not in public service, so no ill-motive can be attributed to her and none has been attributed by the respondent. On the question of limitation, the precedents cited by the leavened counsel for the respondent are distinguishable. The cause of action of the appellant is continuing and further she has stated that it first arose when upon Higher Education Commission's refusal to verify her university degree, she sought correction of her date of birth on the SSC and the respondent refused to oblige her.

6. The two legal issues that arise from the impugned judgment and the pleadings and arguments of parties are as follows:

(i) Is the suit barred by limitation in view of Article 120 of the Limitation Act? and

(ii) Will the date of birth mentioned on SSC prevail over the date of birth mentioned on the birth certificate, CNIC and Passport of the appellant?

7. The learned trial court has held that the suit is barred by time as the appellant was issued her SSC on 09.10.2004 and in order to correct the date of birth mentioned on the SSC she filed a suit in 2019, which was beyond the six-year limitation period prescribed under Article 120 of the Limitation Act. In the suit the appellant has claimed that the cause of action accrued when the appellant came to know about inadvertent mistake that led to recording of wrong date of birth on the SSC and consequently when the appellant approached the respondent for correction of date of birth, which request was denied by the respondent. The respondent in its written statement did not deny that the appellant had approached the respondent but merely asserted that the date of birth recorded on the SSC was in accordance with the admission form filled out by the appellant.

8. For purposes of limitation the learned trial court concluded that limitation began to run from the date of issuance of the SSC. It is the appellant's case that the incorrect date of birth recorded on the SSC is a continuing cause of action and also that cause of action accrued when the incorrect date of birth on the SSC came to her notice in the process of having her educational transcripts verified and she reached out to the respondent to seek its correction, which was refused by the respondent thereby denied her the right to have her correct date of birth reflected on her SSC.

9. It is no body's case that the appellant did not approach the respondent for correction of her date of birth or that the

suit has been filed beyond a period of six years from the date that respondent rejected appellant's request for correction of the date of birth on the SSC. Article 120 of the Limitation Act, 1908 states the following:

Description of suit	*Period of limitation*	*Time from which period beings to run*
120. Suit for which no period of limitation is provided elsewhere in this schedule.	*Six years*	*When the right to sue accrues.*

10. It is evident that time beings to run for purposes of Article 120 of the Limitation Act from the date when the cause of action accrues. In the instant case the cause of action could have accrued from the date of the issuance of SSC if the incorrect date of birth recorded on the SSC had come to the notice of the appellant at that time. Or the cause of action could have accrued from the date on which the respondent refused to correct the incorrect date of birth mentioned on the SSC and bring in accord with the date of birth as mentioned on her birth form, CNIC, Passport, etc., in the event that recording of incorrect date of birth on the SSC had not come to her attention earlier when the SSC was first issued.

11. It was held by a Division Bench of the learned Lahore High Court in the University of the Punjab, Lahore through Registrar vs. Muhammad Aslam Bora, Advocate and another (PLD 1988 Lahore 658) that:

> *"The period of limitation for filing the suits in hand is admittedly regulated by Article 120 of the First Schedule of the Limitation Act, 1908, which prescribes six years' period*

commencing from the time when the right to sue accrues. The right to sue would have accrued to the respondents and they were to have recourse to the Court of law when they had acquired knowledge of their true dates of birth or when they had felt aggrieved with the wrong entries touching dates of birth. The respondents' suits, in view of the circumstances of the cases, were well within time and could not be said to be time-barred."

12. The learned Gilgit-Baltistan Chief Court in Secretary Federal Board of Intermediate and Secondary Education, Islamabad vs. Suriya Bano (2019 YLR 2354) held the following:

"Admittedly the period of limitation for filing of the suit for declaration is regulated by Article 120 of Limitation Act 1908, which prescribes six years period commencing from the time when the right to sue accrues. In the instant case when the plaintiff acquired knowledge of wrong entry of her date of birth in her matriculation certificate, she has filed the suit in the trial Court as evident/mentioned in Para 4 of the plaint. The respondent/plaintiff's suit in view of circumstances of the instant case was well within time and could not be said to be time barred. My view is fortified by case law reported in PLD 1988 Lahore 658."

13. The learned counsel for the respondent relied on Board of Intermediate and Secondary Education through Chairman and 3 others vs. Javed Iqbal Bajwa (2005 YLR 2114) in support of his contention that the suit was time barred. In the said case the learned Lahore High Court held the following:

"I have heard learned counsel for the parties and hold that Article 120 of the Limitation Act, is applicable to the present case; the cause of action had accrued to the respondent, at the time when he received the matriculation certificate, in which allegedly, the incorrect date of birth was mentioned, but no suit was filed. Thereafter, respondent's application

> *was rejected on 14-10-1986; no legal action was taken; the review was dismissed on 15-11-1986, yet the respondent did not approach the Court, resultantly, the cause of action under Article 120 even considered to be recurring, would have arisen to the respondent, on either of the above mentioned dates, but the case was brought on 26-3-1996, which is much after six years than 15-11-1986, the date of the order rejecting his review application, resultantly, the suit is blatantly barred by time and is liable to be dismissed on this score alone."*

The said precedent does not necessarily help the respondent and is distinguishable as there the suit had been filed almost a decade after the request for correction of date of birth on the educational transcript was denied by the Board. In the present case the appellant's position that she was unaware of the contradiction between her dates of birth as recorded on her SSC and as reflected in the rest of her identity documents and that she approached the respondent for correction as soon as she acquired awareness of such contradiction.

14. The respondent has not contradicted the appellant's assertion on the factual plane and has merely argued that the appellant ought to have been aware of the contradiction between the date of birth recorded on the SSC and that claimed by the appellant as a correct date of her birth as also reflected on her birth form and CNIC. However, the learned trial court did not make a determination of fact that the appellant was in fact aware of the contradiction in the date of birth as recorded on her birth form and CNIC and that reflected on her SSC when the SSC was issued on 09.10.2004

and merely assumed that time for purposes of limitation would begin to run from the date of the issuance of SSC.

15. There is no reason to assume that the discrepancy in the appellant's date of birth was in her knowledge at the time of issuance of SSC in 2004. Usually, the information reflected in school transcripts is a consequence of the information provided to the school by the parents of students. Mistakes can creep into such information due to a fault on part of the parents or one on part of the school. At the time when such information is provided for a high school student, he/she has not reached the age of majority and cannot be held liable for any mistake therein. When the Board issues a transcript for such student reflecting the grade in the Secondary School Examination, the focus of the student is on the marks recorded on the certificate and not ancillary details such as the date of birth. It is, therefore, not inconceivable that the appellant would not have taken note of any discrepancy in her date of birth as reflected on the SSC and as recorded in her birth form and CNIC. The respondent has not brought on record any material that contradicts the appellant's assertion through evidence that she only recently became aware of the discrepancy between her date of birth as recorded on her identity documents versus that recorded on her SSC.

16. The case law on the issue of correction of date of birth has emerged in two contexts: when public servants whose employment is subject to terms and conditions of service that prescribes mandatory retirement age seek correction in their

dates of birth to contend that they are actually younger than what the record reflects; and when eligibility or qualification for a certain post requires a minimum age and contenders for such office or post seeks correction in the recorded date of birth on the basis that they are older that what the record reflects. In both these circumstances the court has an obligation to determine the true facts in view of circumstances of each case. But the court is not oblivious to the collateral purpose to be served by correction of date of birth and is therefore skeptical where a person suddenly emerges from slumber and seeks correction of date of birth in contradiction to the date of birth as recorded in documents that are much earlier time such as early education transcripts.

17. In the present appeal, it is no body's case that the appellant is seeking to correct her date of birth for any collateral or ulterior purpose. The appellant is not a public servant and is also not vying for an office, job or position that prescribes a minimum age. She is seeking to have her academic transcripts verified by the HEC, which is a requirement that can arise in the context of pursuing higher studies and even seeking employment in the private sector. And that she is unable to do so because on the one hand her birth form, CNIC, passport and driving license all reflect her date of birth as 19.12.1987 and her SSC reflects her date of birth as 05.11.1988. And due to the contradiction, the HEC is reluctant to verify her academic transcripts and credentials. It would be one thing if all the identity documents of the appellant reflected one date of birth which was the same as

recorded on her SSC, which she was now seeking to amend. In such case she could probably not be given any benefit of doubt that she might have been unaware of the date of birth as recorded on her SSC, if the same date of birth was also recorded her birth form and CNIC, etc. In the instant matter appellant's birth form, her CNIC, her passport and her driving license all reflect her date of birth as 19.12.1987 and consequently it is not unfathomable that she might never have been focused on the date of birth as recorded on her SSC until her attention was drawn to the same by the HEC.

18. The law is not meant to function as an unforgiving trap to be sprung upon unsuspecting citizens. The purpose of law is to declare rules in accordance with which citizens are required to order their lives and affairs. And in this context, it has been recognized since long that processes of law are to be approached as stepping stones toward dispensation of justice and not as stumbling blocks. Throwing out the appellant's suit and appeal on grounds of limitation means that her SSC would continue to reflect one date of birth and all her other identity documents would continue to reflect another. The basic question before this court is not the sanctity of the grades issued to the appellant as reflected in the SSC. The basic question is what is the actual date on which she was born: that reflected in NADRA record, her birth form, CNIC etc., or that reflected on her SSC. As a person cannot have two dates of birth, the date of birth reflected in her birth form and CNIC and that on the SSC cannot stand together.

19. The incorrect date of birth of a person, if recorded on any document or academic transcript can hardly be treated as a past and closed transaction while the person is still alive. It is thus that the legislature in its wisdom has prescribed and courts have upheld that limitation for purposes of article 120 of the Limitation Act would run from the date that cause of action accrues. In the instant case the respondent has neither pleaded nor established that through correction of her date of birth the appellant is pursuing a collateral purpose or that the appellant did not recently approach the respondent to seek correction of date her of birth as reflected on the SSC. The purpose of the Limitation Act, the provisions of which have been declared to be mandatory by the august Supreme Court, is to ensure that legal disputes are not regurgitated indefinitely, that rights acquire certainty and litigants are not indolent in asserting their rights and pressing their claims.

20. The purpose of Limitation Act is not to frustrate adjudication of a *lis* that amounts to a continuing cause of action, which is why the Limitation Act specially makes allowance for recurring and continuing causes of action and provides in many instances that time for purposes of limitation begins to run when a claim is denied thereby giving rise to a cause of action. In the instant matter the learned trial court refused to consider or address the appellant's assertion regarding accrual of a cause of action to her and her contention that she was unaware of the discrepancy between her date of birth as recorded on the SSC versus as recorded in the rest of her identity documents and that cause of action

accrued to her when the respondent refused to make a correction in its record and issue her another SSC that reflects the date of birth as mentioned on her birth form and CNIC, etc. In view of the above, the findings of the leaned trial court that the suit is barred by time is liable to be set aside.

21. The second question before this court is which date of birth is to prevail in case of a conflict: that recorded on her birth form and CNIC, or that recorded on her SSC? One of the grounds in the instant appeal is that the judgment of the leaned trial court suffers from misreading of evidence as it failed to appreciate the date of issuance of the appellant's birth form which was produced as Exh.P3 issued on 18.03.1993. The learned trial court relied on the judgment of this Court reported as Federal Board of Intermediate and Secondary Education, Islamabad through Chairman vs. Azam Ali Khan (2017 YLR 906) wherein it was held that in order to establish the correctness of the proposed date of birth a person is required to place on record documents which predate the issuance of the educational testimonial in question. The learned trial court entered into error when it held that the same had not been done in the instant case as it is evident from the birth form exhibited as Exh.P3 issued on 18.03.1993 that the date of birth of the appellant is recorded as 19.12.1987, and that the said birth form was issued over decade before the issuance of the SSC on 09.10.2004. As the date of birth reflected on the birth form which predate the SSC and which date of birth is also reflected on other identity documents of the appellant, including domicile, CNIC, passport

and driving license, the learned trial court ought to have allowed the suit in view of the ratio of Azam Ali Khan.

22. In the case law on the issue of correction of date of birth as reflected on academic transcript a key consideration for the courts has been whether such correction is being sought for collateral purpose and whether the change sought would affect the rights of any third person. In Board of Intermediate and Secondary Education, Lahore through Secretary v. Akbar Ali (2017 YLR 1485) the change of date of birth was allowed by the trial court and the appellate court and the learned Lahore High Court refused to interfere with such decisions while holding the following:

> *"In the case in hand, the respondent-plaintiff had taken all the possible measures to rectify the Secondary School Certificate by tendering the supporting documents. The correction of date of birth of the respondents would not adversely affect the right of any person or policy of the Board. Therefore, the decisions of the both the courts below need no interference by this court."*

23. A similar matter came up before this Court in its revisional jurisdiction in case titled Federal Board of Intermediate and Secondary Education through Chairman v. Abeer Masood (2017 CLC 1085) wherein the correction in date of birth ordered by the learned trial court was upheld with the following observation:

> *"It is further observed that mistakes in recording the entries of date of birth of students in academic institutions is not uncommon and such mistakes may creep in academic record, and if no prejudice is caused to any other from the correction*

> *of the entries, these should be corrected and should not be retained in the record."*

The Federal Board of Intermediate and Secondary Education filed an appeal against the said order of this court but the said appeal was dismissed by the august Supreme Court through its judgment reported as Federal Board of Intermediate and Secondary Education, Islamabad through Chairman v. Abeer Masood [2020 PLC (CS) 386] which held the following:

> *"The respondent has herself stated before us that she is not an employee of any government or public institution. We would not have allowed the correction had the respondent been in the employment of any public, private or government service and would have taken undue advantage of change in her date of birth, which might prejudice any of others. No such situation arises in this case. In the circumstances, the date of birth on her birth certificate, CNIC as well as in Family Registration Certificate issued by NADRA which is 17.08.1994 cannot be ignored."*

The facts of the instant matter are similar to than in Abeer Masood wherein the august Supreme Court held that *"the date of birth on his birth certificate, CNIC issued by the NADRA cannot be ignored."*

24. The learned trial court seems to have incorrectly applied the ratio of the judgment of this Court in Azam Ali Khan where while setting aside the judgments of the learned trial court and the first appellate court, the following was held:

> *"Strong evidence of unimpeachable character is required to change the date of birth entered in a person's educational testimonials. In this regard, documents, which pre-date the issuance of the educational testimonials in question, will have greater evidentiary value."*

In Azam Ali Khan the respondent had sought to change his name and date of birth from 14.02.1993 to 13.02.1997 i.e. making him five years younger and in view of the facts and circumstances of the case, prominent among which was the fact that the said respondent was relying on documents for purposes of change in his date of birth that had all been issued much later than his educational testimonials and much closer to the time when he brought his claim for such correction of educational record. The present case is clearly distinguishable as her date of birth as recorded in the database maintained by NADRA and reflected on the appellant's domicile, CNIC, Passport, driving license corelates with that on the birth form issued back in 1993, as against the date of birth reflected on the SSC which was issued in 2004.

25. The attention of the learned trial court was probably not drawn to the findings of the august Supreme Court in Abeer Masood in the context of upholding the judgment of this Court that allowed the change in the date of birth. As a general matter, in case of disparity between date of birth as recorded on one's educational testimonials and his/her National Identity Card or birth certificate, the presumption of truth would attach to the date of birth as recorded in the birth form and CNIC issued by NADRA.

26. In Waqas Akram vs. Dr. Muhammad Tahirul Qadri and others (2003 SCMR 145) the august Supreme Court held the following:

> *"Throwing challenge to the date of birth given in the Matriculation Certificate is not a rare phenomenon and if a candidate adopts such a course of action he cannot be labelled as dishonest and sidelined. A candidate is well within his right to challenge the date of birth given in his Matriculation Certificate and produce documents in support of his claim. The proper approach in such a case is to take the matter to its logical conclusion by accepting one of the two sets of documents on the basis of the case-law on the subject and not to disenfranchise the candidate for supporting his claim with documents containing the date of birth inconsistent with that given in the School Certificate and making a declaration in the nature of an affidavit that he is qualified to contest the election. The finding that the petitioner had acted in a mala fide manner in claiming his date of birth as 24-8-1974 and for that reason was not entitled to seek any equitable relief in exercise of writ jurisdiction is thus unjustifiable".*

27. This Court is also guided by the judgment of the august Supreme Court reported as Akhtar Hussain Zaidi Vs Muhammad Yaqinuddin (1988 SCMR 753) wherein the following was held:

> *"The National Identity Card is issued under section 5 of the National Registration Act of 1973. It is issued after full inquiry is made. It is a public document and has got probative value. Presumption of truth is attached to it and can be considered as an evidence."*

28. In Razia Khatoon vs. Dr. Roshah H. Nanji and another (1991 SCMR 840), the august Supreme Court held that, "*the entries of the National Identity Card shall hold the field unless they are rebutted by an equally good or better evidence. In this case such evidence was altogether lacking."*

29. To make out his case the learned counsel for the respondent relied on Abdul Khaliq and another v. Maulvi Noor

Muhammad and others (PLD 2005 SC 962). Unfortunately, the dicta of the august Supreme Court in the said case is not helpful to the respondent in view of the following:

> *"There is no doubt that date of birth of respondent No.2 in the two Identity Cards (old and new) has been shown as 1.1.1976 and according to the pronouncements made by this Court in cases of (i) Syed Akhtar Hussain Zaidi v. Muhammad Yaqinuddin (1988 SCMR 753); and (ii) Dr. Razia Khatoon through Legal Heirs v. Dr. Roshan H. Nanji and another (1991 SCMR 840) National Identity Card is to be treated more authentic, presumption of truth is attached to it, can be considered evidence and would held the field unless the same is rebutted by good and better evidence."*

30. In view of the judgments of the apex Court it can be concluded that the presumption of truth attaches to entries of the National Identity Card, previously issued under the Registration Act, 1973 and now under the National Database and Registration Authority Ordinance, 2000 **("NADRA Ordinance").** While presumption of truth attaches to particulars reflected on a birth form or CNIC and backed by NADRA record, such record is not infallible. In Abdul Khaliq it was held that the entries in a CNIC are to be treated as more authentic and presumption of truth is attached to them, but such presumption can be rebutted and overturn by good and better evidence. It is, therefore for the learned trial court endowed with responsibility to decipher true facts of the case to determine on a case-to-case basis whether the presumption of truth that attaches to the particulars reflected in a birth form or CNIC have been rebutted by the person denying the

truth and authenticity of such particulars through superior and more compelling evidence.

31. The presumption of truth that ought to attach to particulars backed by NADRA record is supported by the legislative intent emanating from the NADRA Ordinance. The relevant provisions of the NADRA Ordinance are being reproduced below:

> Section 5(1)(a).
>
> *5. Purpose, objects, functions and powers of the authority. — (1) The purpose and objects of the Authority shall be to formulate and implement policies and plans for— (a) the development and establishment of an improved and modernized system of registration in the country through appropriate means including technologically advanced, effective and efficient means like computerization, automation, creation of databases, data warehousing, networking, interfacing of databases and related facilities and services;*
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> *Section 7(1)(a)&(b)*
>
> *7. National Data Warehouse. —(1) The Authority shall be responsible for— (a) development and establishment, or causing the development and establishment, of a central database by collection and collation of multifaceted data regarding citizens thereby establishing a database of multi-purpose information relating to citizens to be known as Citizen Database;*
>
> *(b) maintenance, or causing the maintenance, of Citizen Database by all possible means including enhancement and updation of data by, among other things—*
>
> > *(i) necessary liaison with different entities, agencies, bodies, commissions, boards, departments, offices or other formations established, funded, controlled, or administered by the Federal Government, or any Provincial Government or local authority; and*

(ii) by continuous stream of inputs from systems of registration of birth, death, marriage, divorce and any other system of registration or databases, data warehouses, networking, interfacing and related facilities and services established or maintained by it;

Section 9(1), (5) & (6)

9. Registration of citizens.—(1) Every citizen in or out of Pakistan who has attained the age of eighteen years shall get himself and a parent or guardian of every citizen who has not attained that age shall, not later than one month after the birth of such citizen, get such citizen registered in accordance with the provisions of this Ordinance:

Provided that the Authority may, on case to case basis, extend the period for registration of a citizen who has not attained the age of eighteen years:

Provided further that all such citizens who stand validly registered under any law immediately before the commencement of this Ordinance shall be deemed to have been registered under this Ordinance and their registration shall, subject to sections 17, 18 and 30 remain valid till the expiry of two years from the commencement of this Ordinance, or such time as may be notified by the Federal Government, or till such time as such citizen is registered afresh as hereinafter provided, whichever is earlier.

(5) The Authority may issue to a citizen who has not attained the age of eighteen years but is registered under subsection (1), such certificate of registration in such form and manner and containing such information relating to such registered citizen as may be prescribed.

(6) A certificate issued under subsection (5) shall be admissible in evidence for the purpose of proving the identity of, and other information or particulars contained in such certificate relating to, a citizen to whom such certificate relates.

Section 10

National Identity Cards.—(1) The Authority shall issue or renew, or cause to be issued or renewed, in such manner and on terms and conditions, subject to every citizen who has

attained the age of eighteen years and got himself registered under section 9, a card to be called National Identity Card in such form, with such period of validity upon payment of such fee in such form and manner as may be prescribed:

Provided that all cards issued under section 5 of the National Registration Act, 1973, (LVI of 1973) to such citizens as stood registered under section 4 of the said Act immediately before the commencement of this Ordinance shall be deemed to have been issued under this Ordinance and shall, subject to sections 17, 18 and 30 remain valid till such period as the underlying registration of the citizens to whom such cards are issued remains valid in terms of the first proviso to subsection (1) of section 9:

Provided further that before issuing or renewing a card under this section, the Authority may require a person to surrender a National Identity Card earlier issued to him under this Ordinance or the National Registration Act, 1973, (LVI of 1973) or otherwise satisfy the Authority as to the factum of his having totally abandon the use of any such earlier card and, till such time as he surrenders such earlier card or otherwise satisfies the Authority as aforesaid, the Authority may not issue or renew a card.

(2) Notwithstanding anything contained in this Ordinance, all such National Identity Cards as are to be issued to a citizen under this Ordinance by means of a manual or computerized laser printing process (as applicable in the Districts of Islamabad and Rawalpindi) shall not be issued for a period of validity beyond two years after the commencement of this Ordinance, or such longer or shorter period as may be notified by the Federal Government with a view to promoting uniformity, authenticity and technological advancement in the registration for and issuance of National Identity Cards.

Section 19.

Cards necessary for certain purposes. —(1) No citizen who has attained the age of eighteen years but does not possess or produce a National Identity Card shall be granted a passport, permit or other travel document for going out of Pakistan.

(2) Any officer charged with the duty of conducting the poll at an election to the National Assembly or a Provincial Assembly or to a municipal committee, cantonment board or other local authority or body may, for the purpose of satisfying himself as to the identity of any person, require such person to produce his National Identity Card.

(3) The Federal Government may, by notification in the Official Gazette, specify any other purpose for which the production of any card or certificate or receipt issued under this Ordinance shall be necessary. Page 15 of 28

(4) A card including a National Identity Card, issued to a person under this Ordinance shall be proof of his identity as could be established from the contents of such card for any purpose for which his identity is required to be established.

Section 21

Information relation to births, deaths, marriages, divorces, etc. —(1) The birth of a newly born citizen and the death of a citizen or any other prescribed persons or class thereof, shall be reported to the District Registrar by such authority or officer in such manner as the Authority may, by regulations, prescribe.

(2) The marriage or divorce of a citizen or any other prescribed persons or class thereof, shall be reported to the District Registrar by such authority or officer as may be prescribed by regulations.

Section 23

23. Power to call for proof of information. The Authority or any person authorized by it in this behalf may require a person who has given any information to furnish such documentary or other evidence of the truth of that information as it is within the power of that person to furnish.

32. In view of the provisions of NADRA Ordinance, it is clear that the legislature wishes to create an authentic national database that would be repository of particulars of citizens including their dates of birth, death, marriage, divorce etc. The NADRA Ordinance mandates that the details of every birth

are to be transmitted to NADRA and recorded in its database. Section 21 of the NADRA Ordinance requires that the information regarding births, deaths, marriages and divorces are reported to NADRA. Section 9 mandates that each citizen who attains the age of 18 years must give himself registered with NADRA within one month of turning 18. Section 9(5) empowers NADRA to issue a certificate of registration to any citizen who has not yet attained the age of 18 and section 9(6) holds that information and particulars in such certificate shall be admissible in evidence for the purposes of proving the identity of the certificate holder. Section 19 prescribes that CNIC will the primary document on the basis of which passport and other travel documents will be issued to a citizen and also to prove the identity of a person for purposes of casting his vote. Under section 23 of the NADRA Ordinance, NADRA has the authority to call for proof of information. Under section 30(e) failure to apply for a National Identity Card within 90 days of attaining the age 18 years prescribes the penalty of imprisonment for up to six months. Under section 30(2)(a) and (f) anyone who furnishes false information to NADRA including his/her particulars for the issuance of CNIC is punishable with rigorous imprisonment which may extend to five years and fine of upto Rs.100,000/-.

33. Given the object and purpose of the NADRA Ordinance it is patent that it is the intent of law that sanctity and integrity of particulars maintained in the database established and maintained by NADRA is to be preserved. When a child is born the incidence of birth is to be reported to NADRA. When

he/she turns 18 he/she is obliged to seek the issuance of a CNIC. In other words, the legislature has attempted to fill the lacuna that might have existed before promulgation of NADRA Ordinance resulting in discrepancies in recorded dates of birth on identity documents versus academic transcripts. The legislative intent is clear that presumption of truth ought to attach to the particulars maintained by NADRA on the basis of which birth certificates, CNICs and passports are issued and voting rights are afforded to citizens.

34. The boards of education and universities are also established under legislative instruments. But the purpose of such educational institutions is not to verify or ascertain the particulars of citizens such as their date of birth. NADRA Ordinance is a special law promulgated for purposes of maintaining a database to record and verify and preserve the personal particulars of citizens and it is thus that presumption of truth attaches to such particulars. As aforesaid the presumption can always be rebutted by superior and compelling evidence in individual cases. But the general rule as ascertained from the object and purpose of NADRA Ordinance and reiterated by the august Supreme Court in the judgments cited above is that presumption of truth shall attach to the particulars recorded in the CNIC or birth form issued by NADRA.

35. In the instant appeal the birth form dated 18.03.1993 is issued by the Government of Pakistan, Directorate General of Registration under the National Registration Act, 1973. It

reflects the date of birth of the appellant as 19.12.1987, on the basis of which NADRA has issued her CNIC also recording her date of birth as 19.12.1987, which date of birth is also reflected in her domicile, passport and driving license and will be given primacy and presumption of truth will attach to it. The mere fact that the SSC reflects a different date of birth is not sufficient to rebut the presumption of truth that attaches to the particulars recorded on the birth form and CNIC of the appellant.

36. In view of the above, the instant appeal is **allowed** and consequently the judgment and decree of the learned trial court is set aside. The suit of the appellant is decreed. The respondent is directed to issue the appellant a new Secondary School Certificate reflecting the date of birth as recorded on her birth form and CNIC.

(BABAR SATTAR)
JUDGE

Announced in open Court on 08-04-2021.

JUDGE

Approved for reporting.

Saeed.