JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

C.R.No.64/2019
Federal Board of Intermediate and Secondary Education, Islamabad
Versus
Mst. Khadija Touseef

Date of Hearing: 23.10.2019
Petitioner by: Mir Afzal Malik, Advocate
Respondent by: Malik Atif Bashir, Advocate

MIANGUL HASSAN AURANGZEB, J:- Through the instant civil revision petition, the petitioner, Federal Board of Intermediate and Secondary Education, Islamabad, impugns the judgment and decree dated 08.11.2018 passed by the Court of the learned District Judge (West), Islamabad, whereby its appeal against the judgment and decree dated 17.09.2018, passed by the Court of the learned Civil Judge, Islamabad was allowed. Vide the said judgment and decree dated 17.09.2018, the learned Civil Court had dismissed the respondent's suit for declaration and rectification of the date of birth in her matriculation certificate.

2. Learned counsel for the petitioner drew the attention of the Court to the respondent's application form (Exh.D/2) for the Secondary School Examination and submitted that in the said application form, the respondent had entered 25.08.1999 as her date of birth; that the admission form contained the respondent's affidavit deposing that the entries made in the said admission form were correct; that the admission form had also been signed by the respondent's father/guardian; that the said admission form had also been signed and stamped by the Principal of the respondent's School (Millat High School for Girls, Tulsa Chowk Lalazar, Rawalpindi); that the said admission form was exhibited before the learned Trial Court; and that the respondent could not take a position contrary to the one taken by her in the said admission form.

3. Learned counsel for the petitioner further submitted that the respondent had placed reliance on birth certificate (Exh.P/3); that the said certificate was issued on 18.01.2016 whereas prior to

that the Secondary School Certificate was issued on 05.12.2014; that the respondent did not produce the registrar of births in order to prove that her correct date of birth was 25.08.1996; that no witness was produced from the respondent's college/school in order to testify that the respondent's correct date of birth was not 25.08.1999; that Exh.P/4 and Exh.P/5 were also issued after issuance of the respondent's secondary school certificate; and that the judgment and decree passed by the learned appellate Court is contrary to the law laid down by this Court in the case of Federal Board of Intermediate and Secondary Education Vs. Azam Ali Khan (2017 YLR 906). Learned counsel for the petitioner prayed for the revision petition to be allowed.

4. On the other hand, learned counsel for the respondent submitted that the wrong entry of the respondent's date of birth in the admission form was the result of an inadvertent mistake; that the respondent's correct date of birth, i.e. 25.08.1996 has been correctly recorded in Exh.P/4 issued by N.A.D.R.A.; that the birth certificate issued by the local Union Council also mentions 25.08.1996 as her date of birth; and that the judgment and decree passed by the learned appellate Court does not suffer from any legal infirmity. Learned counsel for the respondent prayed for the revision petition to be dismissed.

5. I have heard the contentions of the learned counsel for the contesting parties and perused the record with their able assistance.

6. The record shows that on 15.09.2017, the respondent (through an attorney) filed a suit for *"declaration for change of birth in matriculation certificate"* praying for a declaration that her correct date of birth is 25.08.1996. Furthermore, the respondent prayed for a direction to the petitioner to issue a corrected/rectified mark sheet of her matriculation examination showing her date of birth as 25.08.1996. The petitioner contested the said suit by filing a written statement. After the framing of issues, the respondent tendered in evidence documents, including her birth certificate (Exh.P/3) issued on 18.01.2016 by the Secretary Union Council No. 26, Afandi Colony, Rawalpindi;

Family Registration Certificate (Exh. P/4) issued by NADRA; Copy of Passport (Exh.P/5); copy of CNIC (Exh.P/6) issued by NADRA on 14.05.2016; and copy of SSC Examination Fee deposit *Challan* (Exh. P/7). The respondent's result card dated 05.12.2014 for the matriculation examination-2014 issued by the petitioner was also produced as Exh.P/8. According to Exh.P/2 to P/6, the respondent's date of birth was 25.08.1996 whereas according to Exh.P/8, her date of birth was 25.08.1999.

7. The petitioner, in its evidence produced Exh.D/1 and D/2, which are the respondent's registration card and admission form for the Secondary School Certificate (Part-II) Examination. The respondent and his father/guardian had signed the admission form (Exh. D/2). In this form, the respondent's date of birth was stated to be 25.08.1999. This form also contains an affidavit sworn by the respondent deposing therein that the particulars in the said form were true and correct. This form was also signed and stamped by the Principal of Millat High School for Girls, Tulsa Chowk Lalazar, Rawalpindi.

8. Now, the respondent did not dispute the authenticity of Exh.D/2. Learned counsel for the respondent submitted that the wrong entry of the respondent's date of birth in her admission form for the Secondary School Certificate Examination was caused by an inadvertent mistake. In the said admission form (Exh.D/2), the respondent's date of birth was not only filled in figures but in words as well. Therefore, it cannot be said that there was a possibility of an error being committed by the petitioner in recording the respondent's date of birth in her Secondary School Certificate. Since the admission form (Exh.D/2) was an admitted document, it deserved due weight and credence which has not been given to it by the learned appellate Court. The learned District Judge misread the evidence by not appreciating that the admission form (Exh.D/2) had not just been signed by the respondent, but also by her father/guardian and the Principal of Millat High School for Girls, Tulsa Chowk Lalazar, Rawalpindi. The requirement of an endorsement by the head of the institution is to ensure that the entries made in the admission form are correct

and as per the school record of the respondent. The respondent is, therefore, estopped from taking a position contrary to the one taken by her at the time of submission of the admission form for the Secondary School Certificate Examination.

9. It is also well settled that where there is a disparity in the date of birth entered in the educational testimonials of a person, and the National Identity Card or birth certificate, credence is to be given to the entry of the date of birth in the educational testimonials unless there is cogent and convincing evidence to hold otherwise. In the case of Mohammad Arshad Vs. Noor Ahmad (2008 SCMR 713), credence was given by the Hon'ble Supreme Court to the petitioner's date of birth on his matriculation certificate as compared to his date of birth on his Birth Certificate and National Identity Card.

10. Strong evidence of unimpeachable character is required to change the date of birth entered in a person's educational testimonials. Courts have to be vigilant and cautious in granting discretionary relief of declaration or permanent injunction in cases where plaintiffs seek a change in their names or dates of birth.

11. A student and his/her parents have to be very careful, alert and vigilant while disclosing the date of birth at the time of submission of forms for the examination of Secondary School Certificate / Matriculation. The Secondary School Certificate issued by the Board of Intermediate and Secondary Education goes with the life of a student as this certificate is the authenticated proof of the student's date of birth. Such a certificate is invariably accepted as a valuable piece of evidence in proof of the date of birth of the person in question throughout his/her career, and Courts attach a high degree of probative value to the certificate, and the date of birth as entered in the certificate is accepted as almost binding.

12. A change in the date of birth recorded in matriculation certificate issued by the Board is a serious matter because it involves many consequences and particularly affects the date of retirement etc. In such cases, a Court needs to scrutinize the

evidence carefully and interference should be made sparingly and with circumspection. The approach of a Court has to be cautious and not casual.

13. In the case of Saima Iltaf Vs. Principal, Junior Burn Hall Girls College, Abbotabad (2001 CLC 972), it was held that in order to substantiate the contents of a birth certificate, the relevant register where the date of birth is entered has to be produced. In the case at hand, the respondent's birth certificate was not produced either by the relevant Union Council or by N.A.D.R.A. or its predecessor institution. This is a material lapse in the respondent's case which has not been noticed by the learned appellate Courts below.

14. The learned appellate Court erred by holding that the birth certificate (Exh.P/3) was issued by NADRA when in fact it was issued by Secretary, Union Council. Reliance by the learned appellate Court on the said birth certificate issued on 18.01.2016 was misplaced inasmuch as in the case of Federal Board of Intermediate and Secondary Education Vs Azam Ali Khan (2017 YLR 906), it has been held that when a birth certificate was not issued within a reasonable time after birth, the entry of the date of birth in such a birth certificate had to be corroborated by producing in evidence the register of births showing the correct date of birth of the person in question.

15. By not requiring the respondent to produce the register of births maintained by the relevant Union Council or authority so as to prove that the date of birth entered in the respondent's birth certificate was correct, the learned appellate Court went against the law laid down by this Court. In the unreported judgment dated 29.06.2015, passed by this Court in Civil Revision No.170/2015, titled *"Syeda Razia Bukhari Vs. Federal Board of Intermediate and Secondary Education, Islamabad"*, this Court upheld the concurrent judgments passed by the learned Courts below, whereby, the petitioner's suit seeking a change in her date of birth entered in her matriculation certificate, was dismissed. This Court did not give credence to the date of birth entered in a birth certificate, which was issued years after the petitioner's alleged

date of birth. In paragraph 4 of the said judgment, it has been *inter alia* held as follows:-

> ***"4. ... The birth certificate has been tendered in evidence in original which shows the date of reporting the birth of the child is 19.03.2009, however, the register of Union Council or any other documents was not exhibited in evidence to show that the correct date of birth is 05.02.1988. ..."***

Furthermore, in another unreported judgment dated 27.01.2015, passed in Civil Revision No.538-D/2002 titled *"Federal Board Vs. Mustafa Nawaz",* this Court held as follows:-

> ***"14. ... Moreover, in order to prove the contents of crucial document i.e. birth certificate Ex.P1, it was mandatory to produce and get examined birth register of the concerned union council pertaining to the year 1976-77 for ascertaining correctness and genuineness of the documents, but no such effort was made. There is also no explanation as to why birth certificate was got issued with a delay of more than eighteen years on 2.2.1995."***

16. I am of the view that the learned appellate Court has misread the evidence on the record and has not given credence to the law laid down by the Superior Courts especially the judgments referred to herein above. Therefore, the instant revision petition is allowed; the judgment and decree dated 08.11.2018 passed by the learned appellate Court is set-aside whereas the judgment and decree dated 17.09.2018 passed by learned Civil Court is restored, and consequently, the respondent's suit for declaration and rectification of the date of birth in her matriculation certificate, is dismissed. There shall be no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2019

(JUDGE)

Qamar Khan*

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