

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.3813 of 2010 (O&M)

Date of decision : 01.12.2015

Central Board of Secondary Education

...Appellant

Versus

Pradeep Khatri and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

The appellant-defendant is in Regular Second Appeal against the concurrent finding of fact, whereby the suit filed by respondent-plaintiff with regard to the change of date of birth, has been decreed.

Mr. Harsh Aggarwal, learned counsel appearing on behalf of the appellant submits, that suit instituted on 29.08.2008 was barred by law of limitation inasmuch as that the respondent-plaintiff attained the age of 21 years on 15.07.2008. In support of his contentions, he has relied upon judgment of Division Bench of this Court rendered in LPA No.1613 of 2014 decided on 21.05.2015. The aforementioned aspect has not been noticed by both the Courts below and therefore, following substantial questions of law arises for determination:-

- 1) Whether the suit seeking the change of the date of birth is to be

filed within 3 years of the attaining of the majority on the basis of the birth certificate or not.

As per the office report, respondent No.1 has been served but there is no representation.

I have heard learned counsel for the appellant and appraised the paper book.

In my view, both the Courts below have not appreciated the aforementioned facts by granting the declaration in favour of respondent-plaintiff by changing his date of birth from 15.07.1987 to 15.07.1986 in the record of the Central Board of Secondary Education for the reasons that respondent-plaintiff had attained the age of 18 years on 15.07.2005, whereas the suit was filed on 29.08.2008 i.e. beyond three years of the attaining age of 18 years. In my view, suit ex facie was barred by law of limitation and as well as as per law laid down by the Division Bench of this Court where it has been held that suit has to be filed within three years from the date of attaining majority.

Keeping in view the aforementioned reasons, judgment and decree rendered by both the Courts below are hereby set aside.

The substantial question of law as noticed above is answered in favour of appellant-defendant and against respondent-plaintiff.

Accordingly, suit is decreed.

Appeal is allowed.

Decree sheet be prepared accordingly.

01.12.2015

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**(AMIT RAWAL)
JUDGE**