

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

RSA No. 3892 of 2019 (O&M)

Date of decision : September 30, 2019

Central Board of Secondary Education and anotherAppellants

Versus

Prince and anotherRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Beant Singh Seemar, Advocate
for the appellants.

LISA GILL, J.

Appellants – defendants/Central Board of Secondary Education (for short – 'CBSE') and the Controller of Examination has filed this appeal challenging judgment and decree dated 04.01.2019 passed by the learned Civil Judge (Senior Division), Rohtak whereby the suit for declaration alongwith relief of mandatory injunction filed by the plaintiff – respondent No. 1 has been decreed as well as judgment and decree dated 04.05.2019 passed by the learned District Judge, Rohtak whereby appeal filed by the present appellants has been dismissed.

Brief facts necessary for adjudication of the case are that the plaintiff - respondent No. 1 filed a suit for declaration alongwith relief of mandatory injunction directing the defendants to correct the date of birth of the plaintiff in their records and issue fresh corrected documents. It is pleaded that plaintiff - respondent No. 1 cleared his 10th class examination while taking classes with defendant No. 3/school, through the defendant – Board. On receipt of the mark sheet in respect to the said examination, the plaintiff, it is pleaded, was shocked to know that his date of birth was

wrongly mentioned as 29.06.2000 instead of 18.09.1998. It is stated that he was born on 18.09.1998 at District Panipat and his date of birth was recorded in the record of Additional District Sub Registrar, Birth and Death, Panipat. It is stated that the plaintiff was a minor at the time of the filing up of the 10th standard examination form and it is due to an inadvertent mistake that his date of birth was recorded as 29.06.2000 instead of 18.09.1998. Plaintiff – respondent No. 1 approached the defendants to correct his date of birth in his marks sheet/education qualification documents but they did not pay any heed to his request. Hence, the suit was filed.

Respondent – defendants contested the suit while taking various preliminary objections. It is stated therein that the certificate was issued on the basis of information furnished by the plaintiff and his parents and the suit filed by the plaintiff is not maintainable. Dismissal of the suit was prayed for.

Replication was not filed.

Following issues were framed by the learned trial Court on the basis of the pleading:-

1. Whether the plaintiff is entitled to decree of declaration as well as mandatory injunction as prayed for on the grounds as alleged in the plaint?OPP.
2. Whether the suit of plaintiff is not maintainable? OPD.
3. Whether the plaintiff has no locus standi to file this suit? OPD.
4. Whether the suit is time barred?OPD
5. Whether is the suit is bad for mis-joinder and non-joinder for the necessary party?OPD
6. Relief.

Evidence was led by both the parties.

Learned trial Court on considering the evidence on record,

facts and circumstances of the case held that the case was squarely covered by the judgments of this Court in LPA No. 1613 of 2014 (**Ambika Kaul versus Central Board of Secondary Education and others**) and LPA No. 373 of 2015 (**Shubham Attri versus Central Board of Secondary Education and others**). Accordingly, the suit was decreed. Appeal filed by the appellants was dismissed by the learned Additional District Judge, Rohtak vide judgment dated 04.05.2019. Aggrieved therefrom, present appeal has been filed.

Learned counsel for the appellants vehemently argues that applicable rules, specifically Rule 6.92 of the Examination Bye-laws of the CBSE do not permit for any change in the date of birth once recorded in the Board's record, except correction of typographical or other errors to make the certificate consistent with the school's record, therefore, both the learned courts below have erred in dismissing the suit filed by the plaintiff – respondent No. 1. It is, thus, prayed that this appeal be allowed, impugned judgment and decree dated 04.01.2019 passed by the learned Civil Judge (Senior Division), Rohtak as well as judgment and decree dated 04.05.2019 passed by the learned District Judge, Rohtak, be set aside and suit filed by respondent No. 1 be dismissed throughout.

I have heard learned counsel for the appellants and have gone through the file with his able assistance.

It is a matter of record that the plaintiff – respondent No. 1 sought correction of his date of birth from 29.06.2000 to 18.09.1998. Reliance was placed on the birth certificate (Ex.PW1/F), Aadhar card (Ex.PW1/E), certificate (Ex.PW3/B) issued by the Headmaster L.K. Memorial school, application form (Ex.PW3/C) wherein the plaintiff had

sought admission at Lord Krishna Memorial High School. Learned counsel for the appellants is unable to deny that PW3 Sanjeev Hooda, Principal/Headmaster of the concerned school has duly proved the admission form of the plaintiff – respondent as Ex. PW3/C, certificate (Ex.PW3/B) besides the copy of the admission and withdrawal register (Ex.PW3/A) wherein date of birth of the plaintiff – respondent is duly mentioned as 18.09.1998. PW4 Sukhbir, Record Clerk of Jyoti Parkash School has proved the birth certificate of the plaintiff as Ex.PW4/A, a copy of the admission and withdrawal register of the school in respect of the plaintiff (Ex.PW4/B) wherein the date of birth of the plaintiff is again mentioned as 18.09.1998. The suit was filed well within the period of three years of attaining majority by the plaintiff. Learned counsel for the appellant is unable to deny that the present is not a case where the plaintiff is trying to derive any unlawful gain by the correction in the date of birth. In fact the plaintiff is claiming himself to be nearly two years older than as reflected in the matriculation certificate. Reliance has been rightly placed by the courts below on the decision of **Shubham Attri's** case (supra). It is relevant to note that in similar circumstances, a Division Bench of this Court, allowed correction in the date of birth in the matriculation certificate in LPA No. 495 of 2015 decided on 21.07.2015.

Keeping in view the above, it is clear that both the learned courts below have rightly decreed the suit filed by the plaintiff – respondent No. 1, vide well reasoned and logical judgments rendered on proper appreciation of evidence on record which warrants no interference. In my considered opinion, no question of law much less a substantial question of law, is involved for consideration in this appeal.

Learned counsel for the appellant is unable to point out any

illegality, infirmity or perversity in impugned judgment and decree dated 04.01.2019 passed by the learned Civil Judge (Senior Division), Rohtak as well as judgment and decree dated 04.05.2019 passed by the learned District Judge, Rohtak, which calls for any interference by this Court in second appeal.

No other argument has been addressed.

Accordingly, this appeal is dismissed with no order as to costs.

September 30, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No