

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

**RSA No.156 of 2021 (O&M)
Decided on : 19.03.2021**

Central Board of School Education through its Secretary/Director,
Panchkula

... Appellant

Versus

Ms. Annu (Minor) and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Naveen Chopra, Advocate, for the appellant.

(The proceedings have been conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J.

Challenge in the present regular second appeal which is accompanied with an application under Order 41 Rule 27 CPC is to the findings recorded by the Court below at Jhajjar, whereby the suit for declaration and mandatory injunction of the plaintiff was decreed on 26.07.2019 by the Civil Judge (Junior Division).

The appeal filed before the lower Appellate Court was dismissed on the ground that there was a delay of 301 days in filing the appeal.

The only correction which the plaintiff as such was seeking in her mark-sheets was that her father's and mother's surname as 'Singh' and 'Devi' should be incorporated. The claim as such was made on the basis of the matriculation certificate, PAN Card, Aadhar Card etc. and which was opposed by the appellant-Board, in the opinion of this Court without any basis.

The present appeal has also been preferred to produce additional evidence in support of its defence, though it was noticed by the

Trial Court that several opportunities had been given and evidence was closed by Court order.

In such circumstances, this Court is of the opinion that application for additional evidence, whereby the birth certificate of the plaintiff is sought to be brought on record as Annexure A-1, wherein her parents surname did not mention is also without basis. Similarly, Annexure A-2 is the Admission Form of the School and Annexure A-3 is the Admission and Withdrawal register.

The Trial Court on examination of the various documents produced by the plaintiff including Haryana Resident Certificate of her father (Ex.P3), copy of the Secondary School Examination Certificate of the plaintiff's father (Ex.P4), PAN Card of the plaintiff's father (Ex.P5), Copy of Senior Secondary Examination Certificate of plaintiff's father (Ex.P6), Copy of LLB Mark-sheet of plaintiff's father (Ex.P7), Copies of PAN Card and Aadhar Card of plaintiff's mother (Ex.P8 & P9) and copy of Middle Examination Mark-Sheet of her mother, came to the conclusion that parents name was 'Karamjit Singh' and 'Renu Devi'.

The suit of the plaintiff was, accordingly, decreed and decree was passed to the effect that the correct names of plaintiff's father and mother are 'Karamjit Singh' and 'Renu Devi' instead of 'Karamjit' and 'Renu' and it was directed that the needful be done. It was also noticed that the Board had been approached in the year 2018, after the plaintiff had appeared in the Senior Secondary School Examination in May, 2018.

Instead of complying with the directions of the Trial Court,

belated appeal as such came to be filed on 24.06.2020. The lower Appellate Court noticed that the certified copy of the judgment and decree had been applied within 4 days on 30.07.2019 and prepared on 01.08.2019. It had been supplied by the Copying Branch on 05.8.219. The same had been sent to the higher authorities for taking permission for filing appeal, which had only been received in June, 2020. Keeping in view the judgment of the Apex Court passed in '**Office of Chief Post Master General & others Vs. Living Media India Ltd. & another**', **2012 (3) SCC 563**, the appeal had been dismissed on the ground that no sufficient cause had been made out and the appellant-Board had failed to afford proper explanation for the delay in filing the appeal.

Counsel has mainly tried to convince this Court that there was suppression as such on the part of the plaintiff as she did not produce the Birth Certificate, which was registered on 15.02.2001 (Annexure A-1), which also showed her parents name as Karamjit and Renu.

The said argument is also without any basis. As noticed the evidence of the appellant-Board was closed by order, after giving sufficient opportunities to produce the birth certificate in support of their case. Even otherwise, the said certificate would not be helpful in pronouncing the judgment as such and the application does not come within the four corners of the provisions of the Order 41 Rule 27 CPC. It was also open to the appellant as such to produce the same at the time of evidence, which was never denied by the Court below. As noticed the Trial Court had taken into consideration the various documents right from

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matriculation certificate of the parents to come to the finding that the description of their full name was correct and, therefore, there was no need to produce the said certificate.

The correction is being made on the strength of a Court decree and thus there is no reason for filing an appeal which is not involving any substantial question of law, which would necessitate any consideration by this Court. It is not the case of the appellant-Board that any fraud has been played by the plaintiff, which would benefit the child in any manner by incorporating the details in her academic records. In the absence of the same, no fault can be found in the judgment and decree of the Trial Court decreeing the suit for valid reasons.

The lower Appellate Court was also justified in dismissing the appeal on delay and in the absence of any sufficient cause having been made out, in view of the principles laid down by the Apex Court. Rather in the opinion of this Court the present appeal is liable to be dismissed with exemplary costs. However, keeping in view the fact the other side is not being called upon, this Court restrains itself from imposing costs upon the appellant-Board.

Resultantly in view of the above discussion, finding no merit in the present appeal, the same is dismissed in limine.

March 19, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes