

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

RSA No.1482 of 2020 (O&M)

Date of decision: 04.02.2021

Central Board of Secondary Education

....Appellant

Versus

Tanya Luthra and others

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kannan Malik, Advocate,
for the appellant.

Mr. Brijender Kaushik, Advocate,
for respondent No.1.

Mr. Sunil Dhanda, Advocate,
for Mr. Deepak Manchanda, Advocate,
for respondent No.2.

RITU BAHRI J. (Oral)

This appeal has been filed against the judgment of reversal dated 01.10.2019 passed by the District Judge, Ambala, whereby appeal filed by Tanya Luthra-plaintiff (respondent No.1 herein) against the judgment and decree dated 12.10.2017 passed by the Civil Judge (Junior Division), Ambala, has been accepted and suit of plaintiff (Tanya Luthra) has been decreed.

Plaintiff-Tanya Luthra (respondent No.1) filed a suit for declaration to the effect that her correct date of birth is 30.12.1995 and name of her mother is Rachna Luthra as per birth certificate issued by the Sub Registrar (Birth & Death), Municipal Corporation, Ambala (City Zone) on 03.04.1996 with consequential relief of Mandatory Injunction directing the defendants to correct the date of birth of plaintiff as 30.12.1995 instead

of 01.11.1995 and her mother's name as “Rachna Luthra” instead of “Madhvi Luthra” in her education record maintained by defendant No.1-CBSE (appellant herein), especially in her Secondary Examination Certificate of June, 2011.

Upon notice, defendants filed separate written statements controverting the stand taken by the plaintiff in her plaint and prayed for dismissal of the suit.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the plaintiff is entitled to the relief of declaration as prayed for? OPP
2. Whether the plaintiff is entitled to consequential relief of mandatory injunction for correction of her date of birth and her mother's name as prayed for?OPP
3. Whether the present suit is not maintainable in the present form? OPD
4. Whether the jurisdiction of the court is barred? OPD
5. Relief.

Trial Court, after going through the evidence led by the parties, dismissed the suit on the ground that as per Rule 4 of the Examination bye-laws, suit against the Board shall be filed in the name of the Secretary of the Board and it can be filed in the National Capital territory of Delhi only. The plaintiff resides in Ambala.

On appeal, judgment passed by the trial Court has been set aside and the suit has been decreed.

Learned counsel for the appellant (plaintiff) had argued that as

per the Secondary School Examination certificate Ex.P1 and mark-sheet Ex.P2, date of birth of the plaintiff is mentioned as 01.11.1995 and the name of the mother of plaintiff has been mentioned as “Rachna Luthra”, whereas, as per the Municipal record Birth certificate Ex.P4, correct date of birth of the plaintiff is 30.12.1995. However, the correct name of her mother is “Madhvi Luthra”. Date of birth and name of plaintiff's mother was given by her parents at the time of admission and the jurisdiction to entertain a suit for correction would be in a Court in Delhi.

The lower appellate Court has referred to the judgment passed by Division Bench of this Court in **Ambika Kaul vs. Central Board of Secondary Education and others**, 2015 (2) LAR 264, wherein it has been held that if, wrong date of birth is recorded in the school when the child was minor, then he can dispute the date of birth within 03 (three) years after attaining the majority. As per Section 6 of the Limitation Act, minor has a right to seek correction in the actual date of birth on the basis of certificate issued by the Registrar, Births and Deaths. In no case, the date of birth recorded in the matriculation certificate should be corrected after three years of attaining majority on the basis of date of birth in the birth certificate. Before the trial Court, plaintiff had produced on record her date of birth certificate Ex.P4, which was issued by the Municipal Corporation, Ambala, in which her date of birth was mentioned as 30.12.1995 and names of her parents were mentioned as Rajesh Kumar and Madhvi. However, as per Secondary School examination certificate as Ex.P1, Central Board of Secondary Education as Ex.P2 and Senior School Certificate Examination as Ex.P3, name of her mother is mentioned as Rachna Luthra and her date of birth is mentioned as 01.11.1995. Keeping in view that the date of birth of

plaintiff was 30.12.1995 and the suit was filed in the year 2016 i.e. within three years of attaining the majority, a direction was given for correction in the date of birth and name of mother of plaintiff as Madhvi.

Learned counsel for the appellant has not been able to cite any judgment contrary to the law laid down by the Division Bench of this Court in **Ambika Kaul's** case (supra). A Co-ordinate Bench of this Court in **Nitin Kumar vs. Central Board of Secondary Education and others**, CWP-11005-2020 (decided on 24.09.2020) has allowed a petition, whereby the petitioner was seeking correction in the name of his father in the school records. In that case, Central Board of Secondary Education issued petitioner's 10th and 12th class examinations' mark-sheets and certificates, including his migration certificate, recording his father's name as Sukhpal Singh. He was seeking change of name and his application for change of name being Sukhpal and not Sukhpal Singh was rejected. It was further observed by this Court that in similar circumstances, the Central Board of Secondary Education had been allowing applications for correcting names of parents in a number of cases. Ultimately, the aforesaid petition was allowed and a direction was given to the Central Board of Secondary Education to correct the name of petitioner's father in its records as 'Sukhpal' and issue fresh certificates. While allowing the petition, it was further observed as under:-

“Mr. Kannan Malik, learned counsel for the CBSE, would argue that those cases are distinguishable as the school record supported such corrections, unlike the case on hand. However, this Court does not find it to be so. For instance, in CWP-23270-2017, titled '**Shikha Khaneja vs. Central Board of Secondary Education and others**', the petitioner therein had sought correction of her mother's name as Vipin Kumari Khaneja in the place of Sarita Khaneja. Admittedly, the mother had entered the wrong name in the school admission form at the time of her

daughter's admission. Despite the same, the CBSE accepted the documentation produced in proof of the correct name and stated that it had no objection in carrying out the correction. Similar was the situation in CWP-26481-2017, titled '**Ekamvir Singh Chawla vs. Central Board of Secondary Education and others**'. ”

In the present case, plaintiff-Tanya Luthra is seeking change of date of birth as well as her mother's name, which in the certificates, has been written as 'Rachna Luthra'. However, as per birth certificate Ex.P4 issued by the Municipal Corporation, Ambala-defendant No.2, correct date of birth of the plaintiff is mentioned as 30.12.1995 and her mothers name is 'Madhvi'. Defendant-CBSE (appellant herein) has not disputed the certificate Ex.P4 issued by the Municipal Corporation, Ambala. Hence, keeping in view the judgments passed in **Ambika Kaul** and **Nitin Kumar's** cases (supra), suit filed by the plaintiff for change of mother's name and correction of date of birth, has been rightly decreed by the lower appellate Court. No illegality, much less perversity, has been found in the impugned judgment. Moreover, the evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

04.02.2021

ajp

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