

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

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**RSA No. 1636 of 2020 (O & M)
Decided on :11.01.2021**

Central Board of Secondary Education

... Appellant

Versus

Anuj Goyat

... Respondents

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

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

(The proceedings are being conducted through
video conferencing as per instructions.)

G.S. Sandhawalia, J.

The present appeal, filed by the Central Board of Secondary Education (in short 'CBSE'), challenges the orders of the Civil Court, Meham, District Rohtak dated 17.12.2019, which has been upheld by the District Judge, Rohtak on 03.07.2020. Resultantly, declaration has been given to the plaintiff-respondent that his actual date of birth is 27.01.2000 instead of 27.01.2001. The same is on the basis of Ex.P-1, the certificate issued by the department of Registrar, Births and Deaths, which was proved by PW-3 Jasbir, Clerk from the said department. Resultantly, mandatory injunction has been granted that the plaintiff is entitled to get the same corrected in the record of the present appellant.

Counsel for CBSE has vehemently submitted that the decision of the Courts below was not justified and there was an estoppel as such against the plaintiff and the suit should not have been decreed in view of Section 41(g) of the Specific Relief Act, 1963 and the principle of acquiescence. It is submitted that the judgment of the Division Bench also

in *Ambika Kaul and others vs. Central Board of Secondary Education and others, 2015 (3) SCT 350* held that the candidate as such is estopped from relying upon the birth certificate issued by the Registrar, Births and Deaths at a later stage of life and it would amount to give premium for one's own conscious action.

This Court has examined the judgments of the Courts below and feel that there is no legal lacuna as such which would warrant interference in a regular second appeal and the argument as such which has been raised by the counsel for CBSE is not liable to be accepted. The suit as such was filed admittedly on 30.10.2018 and the secondary school examination had been passed in the year 2016. The same was based on the certificate which had been issued by the Sub Registrar, Births and Deaths, Municipal Corporation, Rohtak. The appellant had, as such, relied upon judgment of the Division Bench in *Ambika Kauls' (supra)* and upon the provisions as such to submit that no change in date of birth once recorded in the Board's records shall be made and that an application for correction can be made only within five years from the date of declaration of the result of the 10th class examination.

The plaintiff examined as many as 3 witnesses in support of his case whereas CBSE did not examine any witness but only tendered the documents which are the by-laws and notification of CBSE. The Civil Court noticed that there were three siblings as such and the elder sister was born on 12.09.1998 and the younger sister was born on 30.04.2001. It was also noticed that the plaintiff had pleaded that he had gone to the appellant-Board for correction but he was directed to obtain Civil Court decree for correction of date of birth. It had also been deposed that the entry had been

made regarding the date of birth by his illiterate grand father. In such circumstances, the suit has been decreed as such.

The Appellate Court appropriately noticed that as per the certificate (Ex.P-1) issued by the Registrar, Births and Deaths, the registration of the birth was recorded in the Municipal Corporation on 07.02.2000 which is immediately within 10 days of the birth of the plaintiff-respondent i.e. 27.01.2000, who was born at Mittal Nursing Home, Rohtak. Thus, a factual finding has come in that the date of birth could naturally be not 27.01.2001 once the registration of the certificate had taken place a year earlier on the fact that the plaintiff was born in the year 2000 and, thus, the correction has been rightly ordered.

The judgment of the Division Bench also would not, as such, support the case of the Board in any manner since as much as the certificate which was issued for the secondary school examination conducted by the CBSE was of the year 2016 and as noticed that the suit was filed immediately on 30.10.2018 within 2 years and there can be no acquiescence. Even if it is taken that the plaintiff was born on 27.01.2000, he has filed the suit within 3 years on his attaining the age of majority, which was the exception laid down by the Division Bench in *Ambika Kaul's (supra)*, which reads thus:-

“45. The right to seek actual date of birth has to be exercised within three years of attaining the majority on the basis of the birth certificate issued by the Registrar of Births and Deaths. But, after expiry of period of three years from the cessation of disability, no person can rely upon the birth certificate. He is bound by the date given in the matriculation certificate. Therefore, in any case, the right of a person to seek

actual date of birth on the basis of entry in the birth certificate by the Registrar of Births and Deaths is three years after attaining the majority on the basis of date of birth in the said certificate.

It is also to be noticed that in ***LPA No. 373 of 2015, Shubham Attri vs. CBSE and others***, the same Division Bench also allowed the change of the year of birth which has also been allowed in the present case. The relevant portion reads thus:-

“48. In this case, the School records mention 12.6.1996 as appellant's date of birth, whereas the date of birth as per the birth certificate is 12.6.1995. The writ petition was filed in the year 2014 i.e. within three years of attaining majority on the basis of the actual date of birth. The Rules of the Central Board for Secondary Education, do not permit any change of date of birth, except in the case of clerical or arithmetical mistake that too on the basis of entries in the admission form. Though, the appellant should have been directed to approach the Civil Court, yet since he has approached this Court without taking an advantage of matriculation certificate for any purpose and seeks correction in the date of birth for the purpose of obtaining passport, we deem it appropriate to direct the respondent- Board to alter his date of birth to be the same as in the birth certificate issued by the Registrar, Births and Deaths. The appeal stands disposed of accordingly.

In such circumstances, this Court is of the opinion that the judgments and decrees of the Courts below do not suffer from any infirmity and no substantial question of law as such arises for consideration in regular

second appeal. Accordingly, the appeal is dismissed in limine.

11.01.2021
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No