

**HONOURABLE SRI JUSTICE A.VENKATESHWARA
REDDY**

SECOND APPEAL No. 867 OF 2015

ORDER :

Heard the learned counsel for the appellants. Despite granting ample opportunity there was no representation on behalf of respondent who is the plaintiff in OS 1523/2003.

2. This second appeal is filed by the Commissioner of Director of School Education Saifabad, Hyderabad assailing the Judgment and Decree dated 28.04.2007 in AS.No.366 of 2006 on the file of Chief Judge, City Civil Court, Hyderabad.

3. Initially the respondent No.1, who is the plaintiff has filed OS No.1323 of 2003 on the file of third Junior Civil Judge, City Civil Courts, Hyderabad. A suit for declaration that his date of birth is 10.06.1953, instead of 10.6.1950 and also requested for necessary corrections in the relevant records including his employee records. That suit was decreed declaring that the plaintiff's date of birth as 10.06.1953 and the defendants No. 1 to 5 were directed to correct the date of birth of the plaintiff as

10.06.1953 instead of 10.06.1950 in SSLC certificate and other registers and records, Service Book of the plaintiff.

4. Feeling aggrieved by the judgment and decree the 5th defendant i.e. the Commissioner of Director of School Education Saifabad, Hyderabad has filed AS 366/2006. The learned Chief Judge, City Civil Court through the judgment dated 28.02.2007 allowed the appeal in part holding that plaintiff is granted declaration that the date of birth of plaintiff is 10.06.1953 plaintiff is granted mandatory injunction for rectification of the date of birth in the School records and other records to be effected within one month from that date, Whereas the suit is found to be devoid of merits as to relief of mandatory injunction for rectification of date of birth in the service records of the plaintiff. In so far as the claim of the rectifying the date of birth portion in service record cannot be rectified as it starts when the plaintiff joined in the service. Accordingly, dismissed to that effect.

5. The second appeal is filed by the defendant No.5 who is the appellant in AS 366/2006 only assailing with the para 14 of the judgment of the appellant court.

6. The learned first appellate judge has mentioned that plaintiff is entitled for mandatory injunction for rectification of date of birth in the School records and other records. That “other records” may create future problems to the Government though it is specifically mentioned that suit is found to be devoid of merits so far as the relief of mandatory injunction for rectification of date of birth in service records of the plaintiff is concerned holding that rectification of date of birth in the service records is not possible and it stands as it stood when the plaintiff joined in the service.

7. In that view of the matter this order under appeal to the extent in para 14 “that the plaintiff is granted mandatory injunction over rectification of date of birth in all school records” holds good but as far as mentioning as in “other records” will not affect his service records and other benefits relating to his service. With this modification and clarification the second appeal is disposed of.

8. With the above modification of the order under appeal more particularly in para 14 as indicated above the second appeal is disposed of. There shall be no order as to the costs.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.VENKATESHWARA REDDY, J

25th April, 2022.
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