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

**RSA No. 1385 of 2020
Date of Decision:04.07.2023**

Vishal Gupta

... Appellant

Versus

Board of School Education Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Dhruv Gupta, Advocate for the Appellant.

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SANJIV BERRY, J.

Present Regular Second Appeal has been preferred against the judgment and decree dated 19.12.2019 passed by the Court of Additional District Judge, Ambala whereby the appeal preferred by the present appellant against the judgment and decree dated 25.04.2018 passed by the Id. Civil Judge (Jr. Division), Ambala had been dismissed.

2. In nutshell, the case of the plaintiff is that he was born out of wedlock of Shiv Kumar Gupta (Father) and Savitri Devi (mother) on 13.09.1977 and birth certificate to this effect has been issued by the Cantonment Board, Ambala Cantt. Ambala. No other child out of this wedlock was born in 1976-77. The brother of the plaintiff namely Vinod Gupta born on 17.01.1966 and his two sisters namely Renu Gupta and

Poonam Gupta were born on 14.04.1969 and 05.05.1970 respectively. It is averred that the plaintiff passed his secondary school examination in the year 1992 and senior secondary examination examination in the year 1995 from Haryana Board i.e. respondent. It is stated that while sending documents of examination for secondary class examination to the respondent Board, the mother of plaintiff-appellant inadvertently due to *bona fide* mistake, gave the date of birth of plaintiff-appellant as 07.09.1976 instead of 13.09.1977 and the same was forwarded by the School authorities to the respondent Board and due to this reason the date of birth of plaintiff i.e 07.09.1976 instead of 13.09.1977 was recorded.

3. It is averred that the plaintiff was unaware of this fact till March 2017 when he had gone to Tehsil Complex, Ambala Cantt. for getting the photocopies of educational certificates and birth certificate attested for some official purpose and was surprised when the Notary Public brought to his notice that the date of birth is mentioned differently in birth certificate as well as in secondary examination certificate.

4. As per the plaintiff, he visited the defendant authorities time and again for getting the date of birth corrected and ultimately on the refusal of the defendant authorities the suit was filed.

5. On notice defendant failed to appear and as such were proceeded ex-parte.

6. In evidence the plaintiff besides examining himself stepped in witness box as PW2 also examined PW1 Kanwaljit Kaur from the office of Birth and Death and tendered documents Ex.P1 to Ex.P11 as well as Ex.P1/A and Ex.P1/B.

7. After hearing the arguments of learned counsel representing the plaintiff and considering the evidence on record the learned Civil Judge (Jr. Division) Ambala dismissed the suit vide judgment and decree dated 25.04.2018.

8. The plaintiff challenged the judgment and decree dated 25.04.2018 by filing appeal. The said appeal was also been dismissed vide the impugned judgment dated 19.12.2019 passed by Additional District Judge, Ambala. Aggrieved by the same, he has preferred the present Regular Second Appeal before this Court.

9. Learned counsel for the appellant has submitted that date of birth of the plaintiff-appellant had been wrongly recorded as 07.09.1976 in Secondary School Examination Certificate issued by the respondent Board whereas, infact his date of birth is 13.09.1977. He submitted that both the Courts below have erred in appreciating the evidence and have also ignored the birth certificate proved on record by PW1 showing his date of birth as 13.09.1977. He submitted that even in Aadhar Card, Pan Card, Driving Licence, the date of birth of the plaintiff has been recorded as 13.09.1977 as such the plaintiff is entitled to get his date of birth corrected in the record of respondent Board of Education Haryana from 07.09.1976 to 13.09.1977 in his educational qualification certificates issued by the respondent Board. He further referred to the judgment of this Court cited as ***Jasnoor Kaur Batth vs. Union of India and others in CWP No. 25277 of 2019 decided on 13.01.2020, Resham Singh Vs. Union of India and another, 2008(1) RCR(Civil) 131***, and prayed for acceptance of the appeal.

10. After considering the submissions of learned counsel for the

appellant and perusing the judgment and decree dated 25.04.2018 passed by learned Civil Judge (Jr. Division) Ambala and also the judgment dated 19.12.2019 passed by Additional District Judge, Ambala, it is observed that there is no merit in the points raised by the learned counsel for the appellant. It is the case of the plaintiff-appellant that infact his date of birth is 13.09.1977 and while sending the documents for secondary class examination to the respondent Board, his mother had inadvertently mentioned his date of birth as 07.09.1976 instead of 13.09.1977, resulting in his date of birth being mentioned as 07.09.1976 in the Educational certificates issued by the respondent Board. The plaintiff-appellant claims to have come to know of this fact in March 2017 while he wanted to get photocopies of the certificates attested from some Notary Public.

11. As per his own case, the plaintiff-appellant claims that his date of birth was mentioned as 07.09.1976 by his mother Savitri Devi at the time of sending documents of Secondary School Examination to the defendant Board. Therefore, it is not the case that the date of birth of the plaintiff had been mentioned by his guardian/parent in the form correctly and the same was wrongly mentioned by the Board authorities in the educational certificates due to some typographical error. Infact, whatever date of birth was supplied by the mother of the plaintiff-appellant to the School authorities, the same had been forwarded to the defendant Board and the same date of birth was duly reflected in the educational qualification certificates issued by the defendant Board. The date of Birth has been recorded by the respondent Board authorities in the educational certificates of the plaintiff-appellant in terms of the information supplied by his mother

and if that information was wrong then the plaintiff could have got declaration to get it corrected, within 3 years of attaining age of majority but in the present case plaintiff aged about 40 years while approaching the Civil Court for first time kept mum for more than 22 years. It is also not the case of the plaintiff-appellant that he was illiterate and could not notice his date of birth on educational qualification certificates which he might have used a number of times while seeking jobs.

12. It is held in *Ambika Kaul v. Central Board of Secondary Education and others, 2015 (1) SLR 229* that there is not scope of change in the date of birth in the certificate issued by C.B.S.E if a person at the time of admission into a school gives a particular date of birth and that is carried through all the years during the entire period of schooling and no declaration can be given and sought against the Education Board that the person was born on some day other than what was reflected in C.B.S.C certificate. It is further been held there in that 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.

13. Learned counsel for the appellant could not point out as to why the plaintiff-appellant had not approached the authorities within the specific time i.e. within 3 years of attaining majority for getting the date of birth corrected and not even the said Notary Public who allegedly brought the factum of his date of birth being wrongly reflected in the educational certificates has been examined by the plaintiff, therefore, the learned Courts below have rightly observed in holding the claim of the plaintiff being hopelessly time barred and as such not entitled to the declaration as prayed

for, so, I find no infirmity therein to interfere. So far as the judgments referred to by the learned counsel for the appellant are concerned the same are distinguishable from the facts and circumstances of the present case and as such of no help to the appellant.

14. From the above discussion it transpires that the plaintiff-appellant could have sought declaration within 3 years of attaining age of majority had he noticed his date of birth being wrongly mentioned in his educational certificates. However, apart from the fact, that admittedly his date of birth had been recorded correctly by the respondent Board as per the information supplied by his mother, it is also a fact that the appellant kept silent for more than 22 years of attaining majority and even got job. In this way, it is observed that the claim being hopelessly time barred, has therefore, the plaintiff is not entitled to relief of declaration as prayed for .

15. Resultantly, in the light of above discussion, it is observed that the learned Courts below have passed the judgments after judiciously appreciating the evidence on record and the suit as well as the first appeal of the plaintiff-appellant has rightly been dismissed holding the suit of the plaintiff being hopelessly time barred. I find no infirmity or illegality in the findings recorded by the learned Courts below in declining the relief to the plaintiff-appellant. As a consequence, finding no merit in the present appeal the same is hereby dismissed in *limni*.

(SANJIV BERRY)
JUDGE

04.07.2023

Gyan

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No