

[107] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-263-2017

Date of Decision : 28.02.2023

ABHISHEK KUMAR

...Appellant

versus

CENTRAL BOARD OF SECONDARY EDUCATION
DELHI AND ANOTHER

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Ajit Singh, Advocate for Mr. Arun Sharma, Advocate for
the appellant.

Mr. Kannan Malik, Advocate for respondent No.1.

B.S. Walia, J. (Oral)

[1] Challenge in the instant regular second appeal is to the judgment and decree dated 01.09.2016 passed by the learned District Judge, Karnal in CA No.37 of 2016 reversing the judgment and decree dated 24.02.2016 passed by the learned Civil Judge (Jr. Div.), Karnal whereupon the civil suit filed by the appellant/plaintiff was decreed and date of birth of the appellant/plaintiff declared to be 14.09.1994 while directing the respondents/defendants to rectify the date of birth of the appellant/plaintiff in the academic record of the appellant/plaintiff as 14.09.1994 in accordance with his birth certificate.

[2] On the basis of the pleadings of the parties, the following issues were framed:-

1. *Whether plaintiff is entitled to a decree for declaration with consequential relief of mandatory injunction, as prayed for? OPP*

2. *Whether plaintiff has not come to the Court with clean hands and suppressed the true and material facts from the Court? OPD.*
3. *Whether plaintiff has no cause of action to file and maintain the present suit? OPD.*
4. *Whether suit of plaintiff is hopelessly time barred? OPD.*
5. *Whether suit of plaintiff is bad for mis-joinder and non-joinder of necessary parties? OPD.*
6. *Whether plaintiff is stopped from filing the present suit by his own act and conduct? OPD.*
7. *Whether Civil Court has no jurisdiction to entertain and decide the present suit? OPD.*
8. *Relief.*

[3] Thereafter, on the basis of evidence led by the parties as well as submissions made, the learned trial Court decided issue No.1 in favour of the appellant/plaintiff and against the respondents/defendants, while issue Nos.2 to 7 were deemed to be given up and in consequence thereof, the suit filed by the appellant/plaintiff was decreed.

[4] On appeal, the learned District Judge, Karnal reversed the finding on issue No.1 on the ground that the right to seek correction of date of birth had to be exercised within three years of attaining majority on the basis of the birth certificate issued by the Registrar of Births and Deaths, whereas in the instant case, the date of birth of the appellant/plaintiff in the Middle Standard Examination Certificate (Ex.P-2) and Secondary School Examination Certificate (Ex.P-3) issued by respondents was reflected as 13.08.1994 whereas the appellant/plaintiff

(Ex.P-1) issued by the Additional District Registrar (Births/Deaths) and Deputy Civil Surgeon, Karnal was 14.09.1994 and that the appellant/plaintiff had approached the Civil Court on 17.09.2015, when he was more than 21 years of age.

[5] Sole argument of learned counsel for the appellant/plaintiff is that the actual date of birth of the appellant/plaintiff as per birth certificate (Ex.P-1) issued by the Additional District Registrar (Births/Deaths) and Deputy Civil Surgeon, Karnal is 14.09.1994, therefore, if the same was not corrected in the record, it would result in great prejudice to the appellant/plaintiff.

[6] Per contra, learned counsel for respondent No.1/defendant relies upon the decision of a Division Bench of this Court in ***Ambika Kaul vs. Central Board of Secondary Education and others, 2015 (3) Law Herald 2181 (P&H) (DB) (i.e. LPA No.1613 of 2014 & LPA No.373 of 2015 decided on 21.05.2015)*** . Relevant extract of the same is reproduced as under:-

[42] The fact is that every person grows with the date of birth as mentioned in the matriculation certificate. He is aware of such date of birth. Giving allowance of minority will lead to uncertainties and inconsistencies in the records of public authorities. Therefore, though a person is estopped to dispute the date of birth entry recorded in the matriculation certificate, but even if he approaches the Civil Court to seek exclusion of the minority period in terms of Section 6 of the Limitation Act, 1963, such suit cannot be entertained after three years from his alleged date of attaining the age of majority. 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.

[7] Learned counsel also relies upon the decision of another Division Bench of this Court in ***LPA No.482 of 2015 in case titled as Abhimanyu vs. Central Board of Secondary Education, decided on 21.05.2015*** in which by relying on the decision in Ambika Kaul's case (Supra), the claim of the appellant therein for correction of date of birth was rejected on the account of the appellant therein having approached the Court beyond the period of three years after attaining the age of majority. The decision in Ambika Kaul's case (Supra) was also followed by this Court in CWP No.16029 titled as Simran vs. Regional Officer, Central Board of School Education (CBSE), Sector 5, Panchkula decided on 23.09.2019.

[8] I have considered the submissions of learned counsel.

[9] Admittedly, the date of birth of the appellant/plaintiff as per birth certificate (Ex.P/1) issued by the Additional District Registrar (Births/Deaths) and Deputy Civil Surgeon, Karnal is 14.09.1994. However, Middle Standard Examination Certificate (Ex.P-2) and Secondary School Examination Certificate (Ex.P-3) issued by respondents depict the date of birth of the appellant/plaintiff as 13.08.1994. Civil Suit was filed by the appellant/plaintiff on 17.09.2015 whereas on the basis of his actual date of birth certificate (Ex.P/1), the appellant/plaintiff as on date of filing of the civil suit was 21 years and 4 days old therefore the civil suit was filed beyond the period of three years

stipulated in Article 58 of the Limitation Act, 1963 which stipulates the period of time within which declaration can be obtained. Article 58 of the Limitation Act, 1963 is reproduced as under:

58. *To obtain any other - Three years - When the
declaration right to sue first
accrues.*

[10] Resultantly, in the light of the position noted above, I do not find any infirmity with the judgment and decree dated 01.09.2016 passed by the learned District Judge, Karnal reversing the judgment and decree dated 24.02.2016 passed by the learned Civil Judge (Jr. Div.), Karnal. No substantial question of law much less question of law arises for consideration by this Court.

[11] Accordingly, finding regular second appeal bereft of merit, the same is dismissed.

(B.S. Walia)
Judge

28.02.2023
'Amit'

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