

IN THE COURT OF MUHAMMAD AYAZ KHAN,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 233/1 of 2019
Date of Institution: 19.12.2019
Date of Decision: 18.02.2020

(21)

Mehtab Khan s/o Sena Gul

Resident of Village Deepar, PO Ghiljo, Tehsil upper Orakzai & District Orakzai.....
(Plaintiff)

VERSUS

1. **Secretary Education Department, Peshawar.**
2. **Chairman, BISE Kohat.**
3. **Principal, Taamir Millat Public High School Hangu.**
4. **Principal, Government Degree College, Hangu.**

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiff, **Mehtab Khan**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **02.02.2000** while it has been wrongly mentioned as **04.04.1999** by the defendants, which is unnatural as the difference between the age of the plaintiff and his brother namely Mohib Ullah is only **06 months** which is against the **natural gape**. Hence, the instant suit.
2. Defendants were summoned, through register AD but none appeared, hence, defendants were proceeded and placed ex-parte.

Consequently, plaintiff was directed to produce his evidence, which he did. Plaintiff produced three (03) witnesses.

3. PW-1, Mehtab Khan, is the plaintiff himself. He stated that his correct date of birth is **02.02.2000**, while it has been wrongly

mentioned as **04.04.1999** in his Matric DMC by the defendants. He exhibited copy of his CNIC as Ex.PW-1/1. He further stated that his age difference with his brother namely Muhib Ullah is unnatural, which is only 06 months. He produced his brother's CNIC and exhibited the copy of same as Ex.PW-1/2 and his SSC DMC as Ex.PW-1/3. He requested for grant of decree as prayed for.

4. PW-2, Sena Gul, father of the plaintiff, who appeared and recorded his statement. He stated that the correct date of birth of the plaintiff is **02.02.2000** and the date of birth as **04.04.1999** entered in the DMC of the plaintiff is incorrect. He further stated that the plaintiff has an unnatural age gap with his brother.
5. PW-3, Muhammad Zaman, is brother of the plaintiff. He supported the contention of the plaintiff and that the correct date of birth of the plaintiff is **02.02.2000**.


MUHAMMAD AYAZ
Senior Civil Judge,
Orakzai at Hangu

Perusal of evidence present on file reveals that plaintiff claims his correct date of birth is **02.02.2000** on account of unnatural gape with his brother namely Muhib Ullah. He also relied upon his CNIC, which is exhibited as Ex.PW-1/1. The said difference of ages is unnatural and the same is not appealable to any prudent mind. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanoon-e-Shahadat. Even otherwise, it is

the fundamental right of the plaintiff to correct his date of birth in the Matric DMC, which cannot be denied to her. Moreover, if the date of birth of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth is corrected it would not affect the right of any third person. Even otherwise, the same is not rebutted by any documents by the defendants. Nothing is produced in rebuttal by the defendants, being ex-parte.

6. If this unnatural gape is not corrected, it will create problems for the plaintiff in future. In circumstances, the claim of the plaintiff, as mentioned above, is proved through cogent and reliable evidence.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as **02.02.2000** forthwith.

7. Parties are left to bear their own costs.
8. File be consigned to the record room after its necessary completion and compilation.

Announced
18/02/2020



(Muhammad Ayaz Khan)
Senior Civil Judge,
Orakzai at Baber Mela

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CERTIFICATE

Certified that this judgment of mine consists **04** (four) pages, each has been checked, corrected where necessary and signed by me.



(MUHAMMAD AYAZ KHAN)

Senior Civil Judge,
Orakzai (at Baber Mela).