

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 38 OF 2026
WITH
INTERIM APPLICATION NO. 174 OF 2026

Mrs. Bhakti Vijay Patil @ Ms. Daljitkaur Darshan Singh ...Appellant

Versus

The Principal, Khernagar Municipal Secondary School ...Respondent

Mr. Ashutosh Thipsay i/b S. S. Kharat a/w Ms. Achal Gupta, for the Appellant.

Mr. Pradip Patil a/w Mr. R. S. Bhagwat, for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : January 14, 2026

P. C. :

1. The Appeal arises out of the judgment dated 24th November, 2025 passed by the City Civil Court in Civil Suit No. 1488 of 2024 dismissing the suit on the ground of limitation.
2. The suit came to be filed for a declaration that the date of birth of the Plaintiff is 19th September, 1969 and the Defendant, who was the Principal of Khernagar Municipal Secondary School, Municipal Corporation of Greater Bombay and Assistant Municipal Commissioner be directed to correct the date of birth of the Plaintiff in the school

record and to re-issue the school leaving certificate. The Plaintiff came with the case that the Plaintiff had studied in Defendant No. 1-School and the school leaving certificate issued recorded an incorrect date of birth of the Plaintiff as 30th June, 1968 instead of the correct date of birth i.e. 19th September, 1969. The Plaintiff was born in the municipal corporation hospital on 19th September, 1969. The Plaintiff is a teacher by profession and is presently employed with Airport High School and Junior College, Vile Parle (East). The Plaintiff has issued various letters to the authorities as well as the school for correction of her date of birth. On 18th December, 2015, the Plaintiff addressed a detailed letter to the Education Inspector and requested for correction of the date of birth, which was followed by continuous correspondence. On 11th March, 2024, the Plaintiff issued notice under Section 527 of the Mumbai Municipal Corporation Act, 1888 to the Defendant. There was no response. Hence, the suit came to be filed.

3. The Defendant No. 1 in its written statement contended that the Plaintiff was enrolled as a student in Khernagar Municipal Secondary School for the academic period commencing on 10th June, 1982 and was issued the school leaving certificate in accordance with the school records then available and maintained in the normal course of official duties. At the time of her admission to the secondary school, the school leaving certificate issued by Hasnabad Primary School recorded

her date of birth as 30th June, 1968 and the institution relied solely on the school leaving certificate of the previous institution.

4. The Defendant No. 2 and 3 the written statement stating that as per the records of Corporation, they confirm that the birth certificate has been issued to the Plaintiff with date of birth recorded as 19th September, 1969. The birth certificate was duly registered under the registration no. HW11293 on 4th November, 1969 by H-West Ward of Municipal Corporation of Greater Mumbai and that they are fully aligned with the Plaintiff's claim.

5. The Trial Court framed the necessary issues as regards the proof of the correct date of birth of 19th September, 1969, about the incorrect recording of the date of birth in the school leaving certificate. The other issues were answered in favour of the Plaintiff and the additional issue on limitation was answered in the negative resulting in dismissal of the suit.

6. Learned counsel for the Appellant has taken this Court through the judgment of the Trial Court and would contend that the Trial Court has accepted that the Plaintiff has proved that her correct date of birth is 19th September, 1969 and that there is an incorrect record in the school leaving certificate. He submits that the Defendant No. 2 and 3 supports the claim of the Plaintiff and has specifically confirmed in the written statement that the birth certificate issued to the Plaintiff

records the date of birth as 19th September, 1969 under the relevant registration number. He submits that only on the aspect of limitation the Trial Court has non-suited the Plaintiff. He would further point out the birth certificate and the municipal hospital record of birth as well as school leaving certificate and would submit that having accepted the case of the Plaintiff, the Trial Court erroneously recorded a finding in the negative on the aspect of limitation without considering that the same constitutes a continuing cause of action under Section 22 of the Limitation Act, 1963. He would submit that there was various correspondence entered into by the Plaintiff with the respective authorities seeking correction of the date of birth which has not been done. He submits that it is only a discrepancy between the other documents and the school leaving certificate which is required to be corrected and as no action was taken by the authorities the Plaintiff was constrained to file the suit.

7. Per contra, Mr. Patil, learned counsel appearing for Corporation has taken this Court through the pleadings in the written statement and would submit that based on the records which were available with the Defendant Nos. 2 and 3, the Defendant Nos. 2 and 3 have stated that the Plaintiff's date of birth as recorded with the Corporation is 19th September, 1969.

8. The only point arising for determination is whether the Plaintiff's

claim is barred by limitation.

9. The Trial Court has answered the issue of limitation by considering the decision of Hon'ble Apex Court in **State of Tamil Nadu vs T.V. Venugopalan**¹, which had considered the rule that the application for alteration of recorded date of birth would be entertained only if made within five years after entering the service. The Trial Court in view of the said decision held that the suit of plaintiff is not within limitation. The error in the finding is that the Hon'ble Apex Court was considering a particular rule which provided for any correction in date of birth to be carried out within five years of entering the service. The time period of five years does not constitute period of limitation for all purposes and would have no application to present case as no relief is claimed against the employer. The other decisions of Hon'ble Apex Court relied upon by the Trial Court arose in the context of change in date of birth of service record at fag end of the career. The suit filed sought correction of date of birth in the school leaving certificate and the declaration would not bind the employers of the Plaintiff, who are required to take an independent decision as to whether the service record can be permitted to be changed at this stage.

10. The Trial Court held that there is delay and laches for seeking

1 1994 SCC 302

relief and therefore the suit is not within limitation, which is an erroneous finding. The issue of limitation is required to be considered in context of the statutorily prescribed period. Even accepting that the suit being one for declaration was required to be filed within period of three years, there is an obligation to record the correct date of birth in the school records based on the birth certificate, which obligation was not fulfilled by the Defendants resulting in the wrongful entry remaining on the school records constituting a continuous cause of action. The Trial Court erred in non suiting the Plaintiff on the ground of limitation.

11. In light of the above discussion, the issue is answered in favour of the Plaintiff. The First Appeal is allowed. The suit is decreed in terms of prayer clause (a) of the plaint which reads are under :-

a) That this Honourable Court be pleased to pass declaratory decree in favour of the plaintiff declaring that the date of birth of the plaintiff is 19.09.1969, and defendants be ordered and directed to correct the date of birth of the plaintiff in its school record, and incorporate the correct date of birth in the school records as 19.09.1969, and reissue the school leaving certificate to the plaintiff with correct date of birth in the interest of justice;

12. Decree to be drawn up accordingly.

13. Interim application does not survive for consideration and stands disposed of.

[SHARMILA U. DESHMUKH, J.]