

**IN THE COURT OF THE II ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE OF BENGALURU CITY**

Dated this the 28th day of July 2023

PRESENT : **SRI.VEDAMOORTHY B.S.** B.A.(L), LL.B.
II Addl. Chief Metropolitan Magistrate, Bengaluru City.

Cri.Misc.No.4379/2023

PETITIONER : Mohammed Afnan Pasha,
S/o Aslam Pasha,
Aged about 13 years.

Represented by his Uncle
Said Pasha, S/o Abdul Basheer,
Aged about 40 years,
R/at No.555, 30th B Cross,
Tilak Nagar, Jayangar,
Bengaluru-560 041.

(By Smt.Pavithra R., Advocate)

V/s

RESPONDENT : The Commissioner,
Registrar of Births & Deaths,
B.B.M.P., Bengaluru.

(By Smt.Girija B., Advocate)

ORDERS

This petition is filed under Section 13(3) of the
Registration of Births and Deaths Act, 1969 seeking
directions to the respondent to register the event of the birth

of Mohammed Afnan Pasha on 10.01.2010 at No.555, 30th B Cross, Tilak Nagar, Jayanagar, Bengaluru-560041 and to issue Birth Certificate.

2. The uncle of the petitioner has contended in the petition that his brother son by name Mohammed Afnan Pasha, S/o Aslam Pasha and Smt.Yasmeen Arshiya was born on 10.01.2010 at No.555, 30th B Cross, Tilak Nagar, Jayanagar, Bengaluru-560041. he is need of the Birth Certificate of the petitioner for Educational purpose and other purpose. His brother died on 07.04.2017 and his sister-in-law is residing in her parents house. Hence, he is in the custody as uncle. He does not have the knowledge of legal procedure in obtaining the Birth Certificate, failed to obtain the same in time. Due to lack of knowledge and information, legal obligation, he could not comply the same in time. When he approached the respondent seeking Birth Certificate of the petitioner, the respondent issued an a Non-Availability Certificate. Hence, this petition is filed.

3. After due service of notice to the respondent, the respondent appeared before this Court and filed the statement of objections stating that the petition is misconceived and liable to be dismissed. The petitioner is put to strict proof of the contents of the petition. The respondent has no knowledge of the petition averments. The petitioner has not produced relevant documents to prove his case. There is no cause of action to file the petition. The alleged cause of action is created to file this petition. The Brother son of the petitioner was not born within the jurisdiction of this court. Therefore, the petition is liable to be dismissed on the point of jurisdiction. Hence, prayed to dismiss the petition.

4. To prove the case of petitioner, the uncle of the petitioner is examined as PW1 and he has produced the documentary evidences Ex.P1 to Ex.P5. The respondent has not produced any evidences either oral or documentary. Heard the learned counsels for both sides.

5. The points that would arise for my consideration are as follows:-

1. Whether the petitioner has made out sufficient grounds to allow the Petition?
2. What order?

6. My findings on the above points are as under:-

Point No.1: In the Affirmative;

Point No.2: As per final order for the following:-

REASONS

7. **POINT No.1** : It is contended by the uncle of the petitioner that his brother's son by name Mohammed Afnan Pasha i.e. the petitioner was born on 10.01.2010 at No.555, 30th B Cross, Tilak Nagar, Jayanagar, Bengaluru-560041 and his birth particulars are not entered in the Register of the respondent due to ignorance of law and procedure of the petitioner. Ex.P1 is the Non-availability certificate, Ex.P2 and Ex.P3 are the notarized copies of Aadhar Cards of the PW1 the petitioner respectively, Ex.P4 is the notarized copy of Study Certificate of the petitioner and Ex.P5 is the notarized copy of Death Certificate of the father of the petitioner

Mohammed Afnan Pasha. The uncle of the petitioner in his affidavit filed by way of examination-in-chief of PW1 has reiterated the petition averments. The respondent has not produced any oral and documentary evidences.

8. On perusal of the above pleadings of the petitioner, oral evidences of PW1 and the documentary evidence at Ex.P4, it appears that the date of birth of the petitioner by name Mohammed Afnan Pasha is 10.01.2010. From the above evidences, the petitioner has proved that he was born on 10.01.2010 at No.555, 30th B Cross, Tilak Nagar, Jayanagar, Bengaluru-560041 and his date of birth is not entered in the concerned Register of the respondent. Under these circumstances, the petitioner has made out sufficient grounds to allow the petition. Hence, I answer Point No.1 in Affirmative.

9. **POINT NO.2** :- In view of the above findings on Point No.1, I proceed to pass the following:

ORDERS

The Petition filed by the petitioner under Section 13(3) of the Registration of Births and Deaths Act, 1969 is hereby allowed.

The respondent is directed to enter the event of birth of the petitioner by name Mohammed Afnan Pasha, S/o Aslam Ahmed and Smt.Yasmeen Arshiya was born on 10.01.2010 at No.555, 30th B Cross, Tilak Nagar, Jayanagar, Bengaluru-560041 and issue the birth certificate to the petitioner by collecting necessary fees.

It is made clear that the direction given in this case binds only the Petitioner and respondent in this case i.e., parties to this proceeding.

No order as to cost.

(Typed by Stenographer in the Court computer on my direct dictation, printout taken, corrected and then pronounced by me in the open court on this the 28th day of July 2023.)

(VEDAMOORTHY B.S.)

II Addl. Chief Metropolitan Magistrate,
Bengaluru City.

ANNEXURE**List of witnesses examined on behalf of the Petitioner :**

PW1 : Sadiq Pasha.

List of documents marked on behalf of the Petitioner :

Ex.P1 : Non-Availability Certificate,
Ex.P2 & 3 : Notarized copies of Aadhar Cards,
Ex.P4 : Notarized copy of Study Certificate,
Ex.P5 : Notarized copy of Death Certificate.

List of witnesses examined on behalf of the Respondent :

- NIL-

List of documents marked on behalf of the Respondent :

- NIL -

(VEDAMOORTHY B.S.)

II Addl. Chief Metropolitan Magistrate,
Bengaluru City.