

IN THE COURT OF XXXVIII ADDL.CHIEF METROPOLITAN
MAGISTRATE, BENGALURU

Present : **Sri. P. Shivaraj,**

B.Com. LL.B.

XXXVIII A.C.M.M Bengaluru

Dated this the 14th day of January - 2022

Crl.Misc.No.137/2022

Petitioner/s: Feroz Khan S/o Sattar Ali Khan
50 years, R/at. no. 15, 1st floor,
Muniswamy road, Tasker town,
H.K.P. Road, Bengaluru-51.

(Smt. Kalavathi Advocate)

//VS//

Respondent/s: The Commissioner,
Registrar of Births & Deaths,
Bengaluru Mahanagara Palike,
Bengaluru.

ORDERS

The Petitioner has filed this petition U/sec.13(3) of Registration of Birth and Death Act 1969. alleging that, **he is the son of Sattar Ali Khan & he was born on 10-05-1971.** As the petitioner and his family members were ignorant about the legal procedure of reporting and registering his date of birth before the competent authority. Further, the petitioner approached the respondent to get his birth certificate. The respondent has given Non-availability certificate. Now, petitioner is intending to register his event of birth in the records maintained by the respondent, as he is in need of his birth certificate for documentation purpose.

2. After registration of the petition, notice was issued to respondent and it is duly served, but respondent does not chose to appear before this court and he placed ex party. Petitioner examined himself as PW.1 and Ex.P.1 to 4 are

marked. Cross of PW1 taken as nil, as respondent remain ex party. Respondent evidence is also taken as nil.

3.I have heard the arguments and perused the records.

4.Now following points would arise for my consideration:

1) **Whether the petitioner has made out sufficient grounds to allow the petition.?**

2) **What order?**

5. My answer to the above points is as under:

Point No.1: In the affirmative

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

REASONS

6.POINT No.1:- PW1 being the petitioner he reiterated the petition averments in his examination in chief. Ex.P1 is the non availability certificate of non registration of his event of birth, issued by the respondent. Ex.P2 to 4. are the petitioners Adhar card and pan card, pass port. The entry in the aforesaid documents reveals that, petitioner is the son of Sattar Ali Khan and was born on **10-05-1971**. The entries in the aforesaid documents corroborates with petitioner version. Ex.P2 to 4 are issued from the competent authority and its genuineness cannot be doubted and deserved to be accepted. The entries in the aforesaid documents reveals and establishes that, the petitioner was born on **10-05-1971**.

7.The non-availability certificate issued by the respondent is marked as Ex.P1. It reveals that the petitioner date of birth was not registered in the respondent records. Petitioner alleged that, he is intending to register his event of birth for documentation purpose. The purpose of filing of this

petition and the documentary evidence on records remains un impeached and unbuttered and same cannot be doubted and deserve to be believed. Further it is settled principle of law that, the entry of date of death or death of a person, in the register of Birth or death is not a conclusive evidence of disputed date of birth or death. It is also true that the Order binds only the concerned Registrar of Birth or death and not others. Accordingly after verifying the correctness of date of birth of the petitioner, based on the undisputed documents relied by him, **I am answering this point in the affirmative.**

8.Point No.2:- For these foregoing reasons stated above to point No.1, I proceed to following:-

ORDER

The petition filed by the petitioner is allowed.

Respondent is hereby directed to enter the date of birth of petitioner that is **he was born on 10-05-1971.** in their register and issue the birth certificate to the petitioner by collecting necessary fee if any.

[Dictated to the typist-copyist directly on computer and correct by me. and then pronounced by me in the open court on 14th January 2022].

(P. SHIVARAJ)
XXXVIII A.C.M.M.
Bengaluru.

ANNEXURES:

No. of witnesses examined on behalf of the petitioner/s:

PW-1 : Feroz Khan S/o Sattar Ali Khan

No. of documents marked on behalf of the petitioner/s:

Ex.P1 : Non availability certificate.

Ex.P2 to 4 : Petitioner's Aadhar Card & Pan card, pass port.

No. of witnesses examined on behalf of the respondent/s:

- NIL -

No. of documents marked on behalf of the respondent/s:

- NIL -

(P. SHIVARAJ)
XXXVIII A.C.M.M.
Bengaluru.