

IN THE COURT OF THE VI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE BENGALURU CITY			
PRESENT	:		RAGHAVENDRA VAIJANATH B.A., LL.B. (NEW) VI ADDL.C.M.M. BENGALURU
DATED	:		14.03.2022
<u>CRL. MISC. NO.</u>	:		<u>1140/2022</u>
PETITIONER	:		01. PUSHPAVATHI S. D/o SHIVARAMAIAH, Aged about 45 years, R/o No.51, 1st Main, 3rd Cross, Vinayaka Nagar, Adugeodi, Bangalore – 560 030. (Represented by Smt. Pavithra R., Adv.)
		//VERSUS//	
RESPONDENT	:		01. THE COMMISSIONER REGISTRAR BIRTHS & DEATHS, B.B.M.P., Bengaluru. (Represented by Smt. Girija B. Adv.)
CLAIM	:	PETITION UNDER SECTION 13(3) OF BIRTHS AND DEATHS REGISTRATION ACT, 1969.	

ORDER

This petition is filed by petitioner against the respondent U/Sec. 13[3] of the Registration of Births and Deaths Act, 1969 praying for issuance of direction to the respondent to register the factum of birth of the petitioner viz., Pushpavathi S. D/o Shivaramaiah and Smt. Padmamma as 01.01.1977.

02. BRIEF FACTS;

The petitioner was born on 01.01.1977 at No.51, 1st Main, 3rd Cross, Vinayakanagar, Adugodi, Bangalore-560 030. After the birth of the petitioner, the parents of the petitioner due to lack of legal knowledge and procedure did not inform the respondent to enter the factum of birth of the petitioner in the concerned register maintained at the office of the respondent. The petitioner had applied for issuance of her birth certificate, but the respondent gave her non-availability certificate dated 14.02.2022 inter alia stating that the factum of her birth has not been entered in their register. Therefore, the petitioner approached this Court for issuance of direction to the respondent to enter the factum of her birth in the concerned register as the petitioner is in requirement of her birth certificate. Hence, the petition.

03. After service of notice, the respondent entered appearance through an advocate and has filed his statement of objection traversing the allegations made in the petition.

04. In the statement of objection, the respondent denied the entire material averments of the petition inter alia contending that the petition is wholly misconceived; the petitioner should be put to strict proof of the averments made in the petition as the same are not within the knowledge of the respondent; the petitioner has not produced any relevant documents to prove her case; no cause of action arose to the petitioner to file the instant petition; the petitioner did not born within the jurisdiction of this court and the documents produced by the petitioner are created for the purpose of this petition. Therefore, the respondent sought for dismissal of the petition.

05. The petitioner got examined herself as P.W.1 and produced three documents marked at Ex.P-1 to P-3. The respondent has not led evidence on his side.
06. I have heard the arguments of Smt. Pavithra R., Advocate, the learned counsel appearing for the petitioner and Smt. Girija B. Advocate, the learned counsel appearing for the respondent. I have perused the records.
07. The following points arise for my consideration;
- 1) Whether the prayer made in the application can be granted?
 - 2) What order?
08. My answer on the above points is as under:
- Point No.1 : In the Affirmative.
- Point No.2 : As per final order, for the following;

REASONS

09. **POINT NO. 1:** The petitioner got examined herself as P.W.1 to depose that she was born on 01.01.1977 at No.51, 1st Main, 3rd Cross, Vinayakanagar, Adugodi, Bangalore-560 030. On her making of an application for issuance of her birth certificate, the respondent on 14.02.2022 gave her non-availability certificate as per Ex.P-1 inter alia stating that the factum of her birth had not been entered in their register. Ex.P-1 apparently shows that the birth of the petitioner has not been entered in the concerned register maintained at the office of the respondent. Ex.P-2 is the petitioner's Aadhaar card. Ex.P-3 is the petitioner's PAN card. In Ex.P-2 and P-3 the date of birth of petitioner is shown as 01.01.1977.

10. The respondent disputed the claim of the petitioner in his statement of objection and also in the cross of PW-1 in a general manner without furnishing any evidence to that effect. In the cross examination of P.W.1 it is suggested to her that, the documents produced by her are not genuine but are created for the purpose of the instant petition, which has been denied by P.W.1. Exhibit P-2 and P-3 are issued by the competent authorities, which corroborate the claim of the petitioner, and unless the contrary is proved their genuineness cannot be doubted. The objections raised by the respondent are not substantiated with any positive evidence. Hence, it appears that the objection was raised by the respondent only for the sake of raising objection. Therefore, I do not find any reason to disbelieve the testimony and documents produced by P.W.1.
11. There is no contra material available on record to disbelieve the case of petitioner. Therefore, I am of the considered opinion that the necessary direction requires to be given to enter the date of birth of the petitioner in the concerned register. Accordingly, point no.1 is answered in the affirmative.
12. **POINT No.2:-** In view of my answer to point no.1, I proceed to pass the following;

ORDER

The petition filed by the petitioner
U/Sec. 13(3) of the Registration of Births and
Deaths Act, 1969 is allowed with no order as
to costs.

The respondent is directed to enter the factum of birth of Pushpavathi S. D/o Shivaramaiah and Smt. Padmamma as 01.01.1977 at No.51, 1st Main, 3rd Cross, Vinayakanagar, Adugodi, Bangalore-560 030, on payment of requisite penalty.

(Dictated to Stenographer directly on computer, corrected and then pronounced by me in the Open Court on this the 14th Day of March, 2022.)

(RAGHAVENDRA VAIJANATH)
VI ADDL. C.M.M., Bengaluru City

ANNEXURE

[I] LIST OF WITNESSES EXAMINED BY THE PETITIONER:

01. P.W.1 : Pushpavathi S. D/o Shivaramaiah

[II] LIST OF DOCUMENTS MARKED BY THE PETITIONER:

- 01. Ex.P-1 : Non-availability Certificate**
02. Ex.P-2 : Aadhaar Card
03. Ex.P-3 : PAN Card

[III] LIST OF WITNESSES EXAMINED BY THE RESPONDENT:

: - NIL -

[IV] LIST OF DOCUMENTS MARKED BY THE RESPONDENT:

: - NIL -

(RAGHAVENDRA VAIJANATH)
VI ADDL. C.M.M., Bengaluru City