

**IN THE COURT OF THE XXXVIII ADDL. CHIEF METROPOLITAN
MAGISTRATE, BANGALORE**

*Present : **Sri. P. Shivaraj,**
B.Com. LL.B.*

XXXVIII ADDL.C.M.M., BANGALORE

Dated this the 03rd day of March-2022

Crl. Misc.1175/2022

Petitioner/s: Syed Rayan, S/o Babajan,
Rep. By his father, 50 years,
No.531, 4th Cross,
Babu Reddy Layout,
Bhuvaneshwari Nagar,
Bengaluru – 560 032.

(By Sri. Pushpalath .V Advocate)

// Vs. //

Respondent/s: The Registrar of Birth & Death,
Office of the Commissioner,
Bruhat Bengaluru Mahanagara Palike,
N.R. Square, Bengaluru.
The Health Officer, BBMP,
(Ex -party)

O R D E R

The petitioner has filed this petition U/sec. 13(3) of Registration of Birth and Death Act 1969. alleging that, his son by name **Syed Rayan was born on 10.04.2006**. As the petitioner and his family members were ignorant about the legal procedure of reporting and registering his son's date of birth before the competent authority. Further the petitioner approached the respondent to get his son's birth certificate.

The respondent has given Non-availability certificate. Now, petitioner is intending to register the event of birth of his son in the records maintained by the respondent, as he is in need of his son's birth certificate for education purpose.

2. After registration of the petition, notice was issued to respondent and it was duly served, but respondent does not chose to appear before this court and he placed ex party. Petitioner examined him self as PW.1 and Ex.P.1 to Ex.P.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 has reiterated the petition averments in his examination in chief. Ex.P1 is the non availability certificate of non registration of date of birth of petitioner son issued by the respondent. Ex.P.2 is the copy of petitioner son's study certificate. Ex.P.3 and Ex.P.4 are the aadhar cards of petitioner and his wife. The entries in the aforesaid documents reveals that the petitioner is the father

of **Syed Rayan** and the said 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 Ex.P.2 reveals and establishes that the petitioners son was born on **10.04.2006**.

7. The non-availability certificate issued by the respondent is marked as Ex.P1. It reveals that the petitioner's son date of birth was not registered in their records. Petitioner alleged that, he is intending to register the event of date of birth of his son, for education 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 birth 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 this 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 son, based on the undisputed documents relied on by his father, **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 register/enter the date of birth of petitioner son that is **he was born on 10.04.2006** in their register and issue birth certificate to the petitioner by collecting necessary fees if any.

[Dictated to the stenographer directly on computer, correct by me. and then pronounced by me in the open court on 03rd March 2022].

(P. SHIVARAJ)

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ANNEXURES:

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

PW-1 : Sri. Babajan S/o Khasim Sab.

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

Ex.P1 : The Non availability certificate.

Ex.P2 : Petitioner's son study certificate.

Ex.P3,4 : Aadhar cards.

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

- NIL -

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

- NIL -

(P. SHIVARAJ)

XXXVIII A.C.M.M. B'LURU.

Orders pronounced in the open court vide separate orders.
The operative portion of the order reads thus;

ORDER

The petition filed by the petitioner is allowed.

Respondent is hereby directed to register/enter the date of birth of petitioner son that is **he was born on 10.04.2006** in their register and issue birth certificate to the petitioner by collecting necessary fees if any.

(P. SHIVARAJ)

XXXVIII A.C.M.M. B'LURU.

