

**IN THE COURT OF THE XXVIII ADDL. CHIEF
METROPOLITAN MAGISTRATE, NRUPATHUNGA
ROAD, BENGALURU CITY**

Present:

**Soubhagya.B.Bhusher
B.A.,LL.B.,LL.M**

**XXVIII Addl. Chief Metropolitan
Magistrate, Bengaluru City.**

DATED: THIS THE 21st DAY OF OCTOBER-2022

CRL. MISC.NO.6262/2022

Petitioner:

Aashvith Abhigya L.S.Naid (Minor)
Rep by natural guardian/Mother
Sowbhagya.A W/o.Lokesh.D.Naik
Age: 41 Years, R/at No.84, Masjid
Main Road, Bhoopsandra, RMV
Extension, 2nd Stage,
Bengaluru-560094

(By Smt.Kalavathi.S.,Adv.,)

V/s.

Respondent:

The Registrar / Commissioner,
of Births and Deaths Section,
Legal Cell, 5th Floor, BBMP Office,
N.R.Square, Bengaluru-02.

(Ex-Parte)

**ORDER ON PETITION FILED UNDER SECTION 13
(3) OF BIRTHS AND DEATHS REGISTRATION ACT
1969**

Learned counsel for the petitioner has filed this
petition under section 13(3) of births and deaths
registration Act 1969.

2. Background facts in a nut shell are as under:

The petitioner is the resident of Bengaluru, minor son of the petitioner by name Aashvith Abhigya L.S.Naik S/o Lokesh.D.Naik and Smt.Sowbhagya.A.A, who was born on 06.04.2019 at No.84, Masjid Main Road, Bhoopasandra, RMV Extension, 2nd Stage, Bengaluru-560094, and said birth of the minor petitioner is not registered with the respondent authority. The petitioner has approached to the respondent with request to issue birth certificate of his minor son Aashvith Abhigya L.S.Naik, as the petitioner is in need of her son's birth certificate for the purpose of School authority and documentation and other purpose. The respondent in-turn got issued endorsement stating that date of birth of the Aashvith Abhigya L.S.Naik is not entered in the registered in the office. Hence, this petition.

3. Respondent did not appear before the court. Hence, it has been placed ex-parte.

4. Trial consisted of examination of the petitioner, the natural guardian of the minor petitioner is examined as PW.1 and 4 documents got marked at Ex.P.1 to 4 and

closed the side. None were examined on behalf of respondent.

5. Heard learned Counsel for the petitioner at length and perused the materials placed on record.

6. Upon hearing argument and on perusal of material placed on records, following points arises for consideration:

1. Whether the petitioner has made out sufficient grounds for allowing the petition?
2. What order?

7. My answer to the above points are as under:

Point No.1: In the Affirmative.

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

:REASONS:

8. **POINT NO.1:** In order to prove the case, natural guardian of the minor petitioner is examined as P.W.1 and reiterated the petition contents in her examination-in-chief affidavit. She got marked non-availability certificate at Ex.P.1. Aadhaar card of P.W.1 at Ex.P.2. Aadhaar card of husband of P.W.1 at Ex.P.3. Mother card marked at Ex.P.4.

As respondent did not appear before the court, her testimony remained unchallenged and uncontroverted. Therefore, there is no reason to disbelieve the evidence given by petitioner mother.

9. It is also trite that in a proceeding Under Section 13 (3) of Registration of Births and Deaths Act, court is concerned with the factum of birth or death and date of birth or death is not relevant. This proposition finds support from the ratio laid down by Hon'ble High Court of Karnataka in 2000 (4) KCCR 2674 (State of Karnataka V/s Smt. Annakka), Which reads thus:

“REGISTRATION OF BIRTHS AND DEATHS ACT, 1969-Section 13 (3)- Direction to make an entry in the Birth Register by the Magistrate-Challenged on the ground, that except the statement of applicant on oath there is no other material.

Held: The Magistrate in a proceeding Under Section 13(3) only ascertains the birth of the child and date is not the material consideration, as such directions bind only the Registration Office Under

the Act to make an entry and does not carry higher probative value.”

10. Reverting to the factual matrix of the present case the the petitioner has stated in the petition as well as in her examination-in-chief that, her son i.e., Aashvith Abhigya L.S.Naik S/o. Lokesh.D.Naik and Smt.Sowbhagya.A.A, who was born on 06.04.2019 at No.84, Masjid Main Road, Bhoopasandra, RMV Extension, 2nd Stage, Bengaluru-560094, which remained unchallenged. Hence, in the light of principles emerges from the decision referred above, the petition is required to be allowed. Hence, I answered the point No.1 in the Affirmative.

11. POINT NO.2: For the foregoing reasons, I proceed to pass the following.

:ORDER:

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

Respondent is directed to enter the date of birth of Aashvith Abhigya L.S.Naik S/o Lokesh.D.Naik and Smt.Sowbhagya.A.A, who was born on 06.04.2019 at No.84, Masjid Main Road,

Bhoopasandra, RMV Extension, 2nd Stage,
Bengaluru-560094, in the concerned records and
issue Birth Certificate to the petitioner after
collecting necessary fee and fine.

No order as to costs.

(Directly dictated on computer to steno, typed by her
corrected and revised by me, signed and then order
pronounced in the open court on 21st day of October-
2022)

(Soubhagya.B.Bhusher)
XXVIII Addl. Chief Metropolitan
Magistrate, Bengaluru.

ANNEXURE

List of witness examined on behalf of the petitioner:

PW.1 : Sowbhagya.A.A

List of documents marked on behalf of the petitioner:

Ex.P.1 : Non-availability Certificate
Ex.P.2 : Adhaar card of PW.1
Ex.P.3 : Adhaar card of husban of PW.1
Ex.P.4 : Mother card.

List of witnesses examined on behalf of the respondent:

-Nil-

List of documents marked on behalf of the respondent:

-Nil-

XXVIII Addl. Chief Metropolitan
Magistrate, Bengaluru.

21.10.2022

Orders

Orders pronounced in the open court
vide separate order.

ORDER

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

Respondent is directed to enter the date of
birth of Aashvith Abhigya L.S.Naik S/o.
Lokesh.D.Naik and Smt.Sowbhagya.A.A, who

was born on 06.04.2019 at No.84, Masjid Main Road, Bhoopasandra, RMV Extension, 2nd Stage, Bengaluru-560094, in the concerned records and issue Birth Certificate to the petitioner after collecting necessary fee and fine.

No order as to costs.

XXVIII ACMM, Belgaluru.

Ex.P.2 to 4 are returned to the petitioner after collecting the certified copies of the same with proper identification by the counsel for the petitioner.

XXVIII ACMM, Belgaluru.