

MISC. APPLICATION NO.441/2022

CNR NO.MHBU 060013312022

ORDER BELOW EXH.1

1] This is an application under Section 13(3) of The Registration of Birth & Death Act 1969 for praying that, Registrar of birth and death Municipal council Khamgaon, be directed to register the date of birth of the Applicant namely “Mohd. Asif Abdul Lateef”, as After his birth on 31/08/1990 at Khamgaon, as his name is not recorded in birth register. The Non-applicant also issued Non-availability certificate to Applicant under Section 17 of the said Act. Hence, in view of the provisions of Section 13(3) of the said Act, the birth date of Applicant has not been registered within one year of its occurrence shall be registered only by an order of this court after verifying occurrence of the birth. Hence, the application.

2] Notice was issued to Non-applicant, he gave submission that there is no entry in the register about the birth of the Applicant and filed say for appropriate order. Paper publication was made. It is to be noted that till today nobody appeared before court and filed any objection.

3] I have carefully perused the application supported with affidavit along with Affidavit of Applicant i.e. documents placed on record i.e. Non-availability certificate, copy of School leaving certificate, I/D Card of Applicant. The publice notice was also given in a newspaper. Thereby calling objections. Till today no objection was received. It is evident that the concerned registrar of birth and death has issued certificate to Applicant in respect of the non-availability of the record regarding the date of birth of applicant. After careful perusal of the documents filed on record, it is evident that the entry regarding birth date of applicant has not been registered within one year of its occurrence.

4] Therefore, after verifying the correctness of documents placed on record, I am of the considered view that, the extract given under Section 17 of the said Act by the concerned registrar of birth and death regarding the non-availability of record has presumptive value under the Indian Evidence Act as a public documents. Hence, it is admissible in evidence for the purpose of proving the unavailability of record regarding the

birth of Applicant. Hence, having regard to the documents placed on record, this court is of the view that this application should succeed and hence the order:

ORDER

- 1] Application is allowed.
- 2] The concerned Registrar of birth and death is hereby directed to record the entry of date of birth of the Applicant namely “**Mohd. Asif Abdul Lateef**”, as on **31/08/1990** , on payment of prescribed fee, as per rules.

Khamgaon Buldhana

Date :- 06/12/2022

(Smt.H.Y.Kawale)

Jt. Judicial Magistrate First Class
Khamgaon Buldhana