

**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 2nd day of June – 2022

Crl. Misc.2991/2022

Pettioners: Mohammed Amanulla
 S/o.Abdul Rasheed, 45 yrs.
 R/a.No.457, No.60/2, 3rd Floor,
 J.R.S.Plaza, I Main, Yeshwanthpura
 Bangalore-560 035.
 (By Smt. Saraswathi, Advocate)

// Vs. //

Respondents: The Commissioner
 Registrar of Births & Deaths,
 Bruhat Bengaluru Mahanagara Palike,
 Bengaluru.
 (Ex -party)

ORDER

The petitioner has filed this petition U/sec. 13(3) of Registration of Birth and Death Act 1969. alleging that, his son by name **Mohammed Faizan and he was born on 24/11/2020**. 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 educational 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 her self as PW.1 and Ex.P.1 to Ex.P3 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 date of birth of petitioner's son issued by the respondent. Exs.P2 and P.3 are the copy of aadhar cards of petitioner and his wife. Ex.P2 and 3 are issued from the competent authority and its genuineness cannot be doubted and deserved to be accepted. The oral testimony of Pw1 reveals that, **Mohammed Amanulla** is the son of petitioner and he was born on

24/11/2020. In **State of Karnataka Vs. Smt. Annakka** reported in **ILR 2000 Kar. 4770**, wherein Hon'ble High Court of Karnataka has held that, the oral testimony of petitioner is sufficient for the verification of date of birth sought under the petition.

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 educational 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 oral testimony of 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 24/11/2020** 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 2nd June 2022].

(P. SHIVARAJ)
XXXVIII A.C.M.M. B'LURU

ANNEXURES:

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

PW-1 : Sri.Mohammed Amanulla S/o.Abdul Rasheed

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

Ex.P1 : The Non availability certificate.

Ex.P2,3 : Aadhar cards of petitioner and his wife.

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 24/11/2020** in their register and issue birth certificate to the petitioner by collecting necessary fees if any.

(P. SHIVARAJ)

XXXVIII A.C.M.M. BENGALURU.