

**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 22nd day of August – 2022

Crl. Misc.4325/2022

Petitioner/s: Anandachari S
 S/o.late Srinivasan.V, 48 yrs.
 R/a.No.96/3, Sri Venkateshwara
 Temple, 4th Main, Srirampuram,
 Seshadripuram,
 Bengaluru – 560 020.
 (By Smt. Saraswathi, Advocate)

// Vs. //

Respondent/s: The Commissioner,
 Registrar of Births and Deaths,
 BBMP,
 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 brother son by name **S.Raghu was born on 04/05/2009**. As the petitioner and his family members were ignorant about the legal procedure of reporting and registering his brother's son date of birth before the competent authority. Further the petitioner approached the respondent to get his brother son's

birth certificate. The respondent has given Non-availability certificate. Now, petitioner is intending to register the event of birth of his brother son in the records maintained by the respondent, as he is in need of his brother's son birth certificate for documentation 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 himself as PW.1 and Ex.P.1 to Ex.P5 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 brother's son issued by the respondent. Ex.P2 is the copy of aadhar card of petitioner. Ex.P3 is the copy of aadhar card of petitioner's brother. Ex.P4 and P.5 are the Aadhar Card and TC of petitioner's brother

son. The entries in the aforesaid documents reveals that the petitioner's brother son is the son of **Sudharsan** and the said documents corroborates with petitioner's version. Ex.P2 to 5 are issued from the competent authority and its genuineness cannot be doubted and deserved to be accepted. The entries in the aforesaid Exs.P.4 and P.5 reveals and establishes that the petitioner's brother son was born on **04/05/2009**.

7. The non-availability certificate issued by the respondent is marked as Ex.P1. It reveals that the petitioner's brother 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 brother's 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's brother son that is **he was born on 04/05/2009** 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 22nd July 2022].

(P. SHIVARAJ)

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ANNEXURES:

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

PW-1 : Sri. Anandachari.S S/o.late Srinivasan.V

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

Ex.P1 : The Non availability certificate.

Ex.P2,3 : Aadhar card of petitioner and his brother

Ex.P4,5 : Aadhar card and TC of petitioner brother's son.

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's brother son that is **he was born on 04/05/2009** 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.