

**IN THE COURT OF XXXVIII ADDL.CHIEF METROPPOLITAN
MAGISTRATE, BENGALULRU**

Present : **Sri. P. Shivaraj,**

B.Com. LL.B.

XXXVIII A.C.M.M Bengaluru

Dated this the 26th day of May – 2022

Crl.Misc.No.3078/2022

Petitioner/s: Swetha Shivalinge Gowda
D/o.Shivalinge Gowda, 45 yrs.
R/a.No.124E, 2nd Main, Shanthinikethan
Layout, Arekere, Bangalore
(Smt.Saraswathi, Advocate)

//VS//

Respondent/s: The Commissioner,
Registrar of Births & Deaths,
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, **she is the daughter of Shivalinge Gowda & she was born on 21/07/1977.** As the petitioner family members were ignorant about the legal procedure of reporting and registering her date of birth before the competent authority. Further, the petitioner approached the respondent to get her birth certificate. The respondent has given Non-availability certificate. Now, petitioner is intending to register her event of birth in the records maintained by the respondent, as she is in need of her birth certificate for documentation purpose.

2. After registration of the petition, notice was issued to respondent and it is 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 5 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 she reiterated the petition averments in her examination in chief. Ex.P1 is the non availability certificate of non registration of her event of birth, issued by the respondent. Ex.P.2 to P5 are the 10th Marks Card, Pan Card, Passport and Aadhar Card of petitioner. The entries in the afore said documents reveals that, petitioner is the daughter of **Shivalinge Gowda** and she was born on **21/07/1977**. The entries in the aforesaid documents corroborates with petitioner 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 documents reveals and establishes that, the petitioner was born on **21/07/1977**.

7.The non-availability certificate issued by the respondent is marked as Ex.P1. It reveals that the petitioner date of birth was not registered in the respondent records.

Petitioner alleged that, she is intending to register her event of birth for documentation 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 the 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, based on the undisputed documents relied by her, **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 enter the date of birth of petitioner that is **she was born on 21/07/1977** in their register and issue the birth certificate to the petitioner by collecting necessary fee if any.

[Dictated to the stenographer directly on computer and correct by me. and then pronounced by me in the open court on 26th May 2022].

(P. SHIVARAJ)
XXXVIII A.C.M.M.
Bengaluru.

ANNEXURES:**No. of witnesses examined on behalf of the petitioner/s:**

PW-1 : Smt. Swetha D/o.Shivalinge Gowda.

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

Ex.P1 : Non availability certificate.

Ex.P2,3,4 : Petitioner's School TC, Aadhar card and Pan Card.

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

- NIL -

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

- NIL -

(P. SHIVARAJ)
XXXVIII A.C.M.M.
Bengaluru.

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 enter the date of birth of petitioner that is **she was born on 21/07/1977** in their register and issue the birth certificate to the petitioner by collecting necessary fee if any.

(P. SHIVARAJ)
38th A.C.M.M.,Bengaluru.

