

IN THE COURT OF THE XV ACMM, BENGALURU**Dated this the 18th August, 2021.****Present: Sri Lokesh D. Havale, B.A, LLB.,
XVth ACMM, Bengaluru****Crl.Mis.No.3074/2021****Petitioner:-** Nazia Begum, D/o.Syed Hamid Ali,
Aged about 26 yrs, R/A.No.319,
Dorobseth Road, Corporation Quarters,
Austin Town,
Bengaluru-560047.

(By Sri.Erappa, Advocate)

V/S

Respondent:- The Commissioner, BBMP, Bengaluru.

(By Smt.G.B.Advocate)

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ORDER

This petition is filed by the petitioner under Section 13[3] of the Birth and Death Registration Act praying to direct the respondent to make an entry of the date of birth of petitioner as 03.04.1995 in the birth register maintained by the respondent.

2. The facts of the petition in brief are as under:

i] That she is a permanent resident of No.319, Dorobseth Road, Corporation Quarters, Austin Town, Bengaluru-560047.

ii] By oversight, inadvertence and bonafide mistake, the date of birth of the petitioner by name Nazia Begum D/o.Syed Hamid Ali and Smt.Anees Begum born on 03.04.1995 at No. 319, Dorobseth Road, Corporation Quarters, Austin Town, Bengaluru-560047 was

not brought to the notice of the respondent. As such, there is no entry in the concerned birth register maintained by the respondent.

iii] The petitioner knew this fact when she went to get the birth certificate. Hence, prayed to allow the petition.

3. Pursuant to the service of notice, the respondent appeared through his counsel and filed objections denying the averments made in the petition stating that the birth of the petitioner is not within the limits of BBMP and false petition has been filed by creating the documents. Hence prayed to dismiss the petition.

4. The petitioner filed an affidavit in lieu of her chief-examination and examined herself as PW.1 and got marked the documents as per Ex.P.1 to P.4. On the other hand the respondent did not lead any evidence.

5. The points that arise for the consideration of this Court are:

1] Whether the petitioner has made out grounds to register her date of birth as 03.04.1995 in the register maintained by respondent?

2] What Order?

6. The finding of this Court on the above points are as under:

Point no.1: In Affirmative.

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

REASONS

7. Point no.1: In her affidavit, the petitioner has sworn that she is the permanent resident of No.319, Dorobseth Road, Corporation Quarters, Austin Town, Bengaluru-560047. By oversight, inadvertence and bonafide mistake, the date of birth of

the petitioner by name Nazia Begum, D/o.Syed Hamid Ali and Smt.Anees Begum born on 03.04.1995 at No.319, Dorobseth Road, Corporation Quarters, Austin Town, Bengaluru-560047 was not brought to the notice of the respondent. As such, there is no entry in the concerned birth register maintained by the respondent. The petitioner knew this fact when she went to get the birth certificate. The petitioner has produced and got marked the document i.e. non-availability certificate and it is marked as per Ex.P.1. In the said document, the date of birth of petitioner is stated to have not been registered as 03.04.1995 in the office of the respondent. Ex.P.2 is the notarized copy of Aadhar card of the petitioner, which is verified with the original at the time of marking. In Ex.P.2 the date of birth of the petitioner is mentioned as 03.04.1995. Ex.P.3 is the notarized copy of Election I.D. card of the petitioner, which is verified with the original at the time of marking. Ex.P.4 is the notarized copy of Pan card of the petitioner, which is verified with the original at the time of marking, for her identity. The counsel for the respondent cross-examined the petitioner but nothing worth was elicited in the cross-examination of petitioner to disbelieve her case. The respondent also did not lead any evidence on his side.

8. The Aadhar card, Pan Card, or any other identity or address proof document, wherein the date of birth is mentioned, is though issued by Government Authority is not reliable as a conclusive proof of date of birth. However it is difficult to obtain school record for a person, who has not attended the school and it is also difficult to obtain medical records of the birth for a person, who has taken birth in the house. The enquiry in this case is made in respect of verification of date of birth and all the documents which are issued by the Government Authorities depict the date of birth of the petitioner as 03.04.1995 and therefore this Court is

satisfied that the date of birth of the petitioner is 03.04.1995. Moreover an entry in the register of births or deaths is not conclusive evidence of the disputed date of birth or death so also an entry pursuant to the directions of the Magistrate under Section 13(3) of RBD Act. The order of the Magistrate binds only the Registrar and not others. Hence, it is just and necessary to direct the respondent to enter the date of birth of the petitioner by name Nazia Begum, D/o.Syed Hamid Ali and Smt.Anees Begum, in the birth register maintained by the respondent.

9. On perusal of the affidavit and the documents produced by the petitioner, it appears from the records that the birth certificate is required for the purpose of documentation and the petitioner has no malafide intention. Hence, this Court answered the above point no.1 in Affirmative.

10. Point no.2: In view of the above reasons given on point no.1, this Court proceeds to pass the following:-

ORDER

The petition filed by the petitioner u/s 13[3] of the Birth and Death Registration Act is allowed with no order as to costs.

The respondent is directed to enter the date of birth of the petitioner by name Nazia Begum, D/o.Syed Hamid Ali and Smt.Anees Begum at No. 319, Dorobseth Road, Corporation

Quarters, Austin Town, Bengaluru-560047 as 03.04.1995 in the birth register and to issue the birth certificate to the petitioner as per law by taking late fees.

(Fed to the computer to my dictation by the Stenographer, after verified by me, print taken by him and after signed by me, pronounced in the Open Court dated this the 18th August, 2021)

[Lokesh D. Havale]
XVth ACMM, Bengaluru.

ANNEXURE

List of witnesses examined on behalf of Petitioner:

PW1: Nazia Begum, D/o.Syed Hamid Ali

List of documents exhibited on behalf of petitioner:

Ex.P.1: Non-availability certificate

Ex.P.2: Aadhar Card of the Petitioner.

Ex.P.3: Voter I.D.of the Petitioner.

Ex.P.4: Pan Card of the Petitioner.

List of witness and documents for respondent:

-Nil-

XVth ACMM, Bengaluru.