

Other Misc. Cri. Application No. 01/2018

(C.N.R. NO. MHWR-07-000017-2018)

Nazir Kasab Mohd. Kasab

.Vs.

Municipal Council Pulgaon

Order Below Exh. 1

(Passed on 28th May, 2018)

This is an application filed by Nazir Kasab Mohd. Kasab, R/o. Aathawadi Bazar, Pulgaon, Tah. Deoli, Dist. Wardha under Section 13 (3) of the Registration of Births and Deaths Act, 1969 for registering his date of birth. Perused the application. The non-applicant has not filed say. Heard learned counsel for applicant.

2) The applicant has stated that, he is permanent resident of village Pulgaon, Tah. Deoli, Dist. Wardha. He was born on 02-04-1950 at Pulgaon, Tah. Deoli, Dist. Wardha. His parents did not know the rules of registration of birth and death. Therefore, they did not record the entry of his date of birth in the record. Now, he is in need of the birth certificate for his personal work. Therefore, applicant has prayed that, the non-applicant be directed to take the entry of his date of birth in the Municipal Council record.

3) Following points arise for my determination. I have recorded my findings thereon with reasons as under -

Sr. No.	Points	Findings
1	Does the applicant prove that, his date of birth is 02-04-1950 ?	 In affirmative
2	What order ?	 As per final order

REASONS

AS TO POINT NO. 1 -

4) To substantiate his contention, the applicant has filed the evidence affidavit at Exh. 8. He has stated the same facts, which are mentioned in the application. He has also stated that, his date of birth is 02-04-1950. As stated above, the non-applicant remained absent. In support of his contention, the applicant has filed certificate issued by non-applicant at Exh. 9. The applicant has also filed Copy of Aadhar Card (Exh. 10), Copy of his School Leaving Certificate (Exh. 13), and Paper Publication (Exh. 14).

5) Learned counsel for applicant has relied on the Criminal Public Interest Litigation No. 4 of 2013, decided on 17 December, 2013 by the Hon'ble Bombay High Court, Nagpur Bench, Nagpur. In this case, Hon'ble Bombay High Court has elaborately discussed the scope and ambit of the provisions of Section 13(3) of the Registration of Births and Deaths Act, 1969. Hon'ble Bombay High Court in Para No. 14 and 15 has observed thus -

“14. Here, the Judicial Magistrate or Presidency Magistrate under Section 13 (3) is obliged to pass an order after due verification of correctness of birth or death. The said verification necessarily will involve appreciation or sifting of evidence but then we do not find it necessary to go to Subsection (3) of Section 13 for the present.

15. Section 13 subsection (3) permits the State Government or Central Government to prescribe fees only.”

6) Section 13 (3) runs as under -

'Any birth or death which has not been registered within one year of its occurrence, shall be registered only on order made by a magistrate

of the first class of the Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.'

7) Thus, as per the observations by Hon'ble Bombay High Court in the above Writ Petition, it is obvious that, the Court can record the evidence in order to ascertain the correctness of the date of birth or death. As per the paper publication, no one has taken objection. In the present case, considering the contents of application, evidence and documents filed on record; this Court finds no reason to disbelieve on the version of applicant. With the result, I record my finding to this point in affirmative.

AS TO POINT NO. 2 -

8) This point is relating to passing of order. In an answer to point No. 1, it is concluded that, the date of birth of applicant is 02-04-1950. Hence, to answer this point, I pass following order.

ORDER

1. Application is allowed.
2. The Chief Officer, Municipal Council, Pulgaon, Tah. Deoli, Dist - Wardha is directed to take the entry of the birth date of Nazir Kasab Mohd. Kasab as 02-04-1950 in the Municipal Council record.
3. The applicant is directed to pay the prescribed fees, as per the rules.

sd/-

(Mayur E. Pawar)

Judicial Magistrate First Class,
Pulgaon.

Dated – 28-05-2018

CERTIFICATE

I affirm that the contents of this P.D.F. file order is same,
word to word as per the original Order.

Name of the Stenographer	:-	Sau.S.M.Kesharwani
Name of the Court	:-	Civil & Criminal Court, Pulgaon
Date of Order	:-	28-05-2018
Order signed by the Presiding Officer on	:-	28-05-2018
Order uploaded on	:-	28-05-2018