

	<u>ORDER BELOW EXH. 1 IN CRI.M.A. NO.120/2023.</u> Shri. Dashrath Appa Kalkute Vs. Registrar/Gramsevak, Grampanchayat, Naganwadi, Tal. Chandgad.
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This is the application filed under section 13(3) of the Registration of Births and Deaths Act, 1969 (*Hereinafter, for the sake of brevity referred as 'the RBD Act'*) seeking an order to the Registrar of Births and Deaths, Grampanchayat Naganwadi, Tal. Chandgad, Dist. Kolhapur, (*Hereinafter, for the sake of brevity referred as 'the Registrar'*), to take his birth entry in Register of Births.

2. It is contended by the applicant that, he has born at village Naganwadi, Tal. Chandgad, on 01/06/1963 and because of want of knowledge and lack of awareness of statutory provisions, his birth entry could not be entered by his family members in the Birth Register kept with the Registrar. The applicant further contends that, when he applied to the Tehsil office, Chandgad for issuing his birth certificate, he came to know that, the said birth entry is not existing with the birth register. Therefore, he applied to this Court for directing the Registrar of Birth and Death to take entry of his birth in the relevant register. Hence, the application.

3. Non-applicant has filed his say at Exh.9 and submitted that, birth entry of the applicant in birth and death register was not found.

4. For the purpose of calling objections, if any, for the grant of relief claimed by applicant, 07 days public notice in the form of paper publication was ordered. Accordingly, public notice was flashed in daily news-paper at Exh.17, dtd.28/08/2023. However, nobody appeared in response to the public notice to raise any objection.

5. By going through the application and the reply, following points arise for my determination and I have recorded my findings thereon for the reasons forthcoming.

	POINTS	FINDINGS
1	Whether the applicant satisfies to the Court that, 01/06/1963 is his correct birth date ?	Affirmative
2	Is the applicant entitled for the relief sought ?	Affirmative
3	What order ?	As per final order

REASONS

6. To prove the contentions of the application, the applicant filed some documents i.e. paper publication in daily news paper at Exh.17, evidence affidavit of applicant at Exh.11, evidence affidavit of Shankar Datekar at Exh.12, non-availability certificate issued by Tehsil Office, Chandgad, Tal. Chandgad at Exh.14, verified copy of School leaving certificate at Exh.15, verified copy of Aadhar card of applicant at Exh.16. By pursis at Exh.13, the applicant closed his evidence.

AS TO POINTS NO. 1 AND 2 :-

7. After looking at the birth record on School leaving certificate of the applicant at Exh.15 shows that, the birth date of the applicant is recorded as 01/06/1963 in academic register. The applicant is not submitting that his date of birth is different than 01/06/1963, but he is insisting for the same. The contention of applicant is supported by evidence affidavit of Shankar Datekar at Exh.12. The applicant in his evidence and application fairly submitted that, due to typographical mistake his birth date is wrongly mentioned as a 01/07/1963 on Adhar Card Exh.16. Though, there is a concept that, '*ignorance*

of law is no excuse', it can not be expected that, the rustic people shall also compulsory be aware about the legal provisions, specially technical and procedural provisions. Applicant bonafidely admits that due to ignorance of his parents regarding law, they could not get registered his birth entry in appropriate register kept for that purpose. The submission of the applicant is appears to be probable one. The standard of proof required for the present matter is in the nature of '*preponderance of probabilities*'.

8. The School leaving certificate shows that, the birth date of the applicant is recorded as 01/06/1963 in academic register. Thus, this Court is satisfied about correctness of date of birth of the applicant. Thus, the applicant succeeded to bring to my satisfaction that 01/06/1963 is his correct birth date. Therefore, the applicant is entitled to relief as sought. Hence, I record my findings in the **affirmative to Point Nos.1 and 2.**

9. In the backdrop of above discussion, the applicant succeeded to prove that, he is born on 01/06/1963 at village Naganwadi, Tal. Chandgad, Dist. Kolhapur. Hence, I pass following order :-

ORDER

The Registrar of Births and Deaths, Grampanchayat Naganwadi, Tal. Chandgad, Dist. Kolhapur is hereby directed to take the entry of birth of Dasharath Appa Kalkute as **01/06/1963**, in the Register of Births on payment of such late fee by the applicant as prescribed by rules.

The application is disposed of accordingly.

Date: 04/05/2024.

(C.U. Shipkule)
Judicial Magistrate, First Class,
(1st Court), Chandgad.