

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 196 OF 2017

**FILIPINA DOMNINA FILOMENA
FERNANDES @ FILIPINA DOMNINA
FILOMENA REBELLO.,**

... Petitioner

Versus

**SUB-REGISTRAR, BIRTHS AND DEATHS,
MARGAO MUNICIPAL COUNCIL, MARGAO
AND 2 ORS.,**

... Respondents

Mr. Fernandes Edward Justino, Advocate for the petitioner.

Mr. C. A. Coutinho, Advocate for the respondent nos.1, 2 and 3.

Coram:- C. V. BHADANG, J.

Date:- 12th February 2018

P.C.

The petitioner is challenging the communication dated 10/10/2017, whereby the Chief Officer, Margao Municipal Council has directed the petitioner to produce Death Certificate of Annie Fernandes issued by the K.E.M. Hospital, in order to consider the application filed by the petitioner under Registration of Births and Deaths Act, 1969. The record discloses that the petitioner had approached the learned Judicial Magistrate, First Class at Margao under Section 13(3) of the said Act being Criminal case No.203/2017/I. The learned Judicial Magistrate, First Class, by an order dated 07/09/2017, had directed the respondent Municipal Council to register the death of Annie

Fernandes alias Annie Terezinha Fernandes daughter of late Rosario Xavier Piedade Fernandes alias Piedade Rosario Xavier Fernandes and late Emilia D'Cruz alias Emilia da Cruz. The learned Magistrate has specifically directed that the date of death shall be recorded as 17/11/1988 and place of death shall be recorded as K.E.M. Hospital, Mumbai. After this order, when the petitioner approached the respondent Municipal Council, the Chief Officer has sought the Death Certificate of Annie Fernandes from the petitioner by the impugned communication.

2. On hearing the learned Counsel for the parties, I find that once there is a judicial order passed by the learned Magistrate, which has attained finality, it is not open for the Chief Officer to insist for production of the Death Certificate. The learned Magistrate, after considering the circumstances, has directed registration of death of Annie Fernandes, including date of the death to be registered and the place where Annie Fernandes died.

In fact, it is difficult to understand as to how the Chief Officer, in the face of the order, can insist for the death certificate.

3. For these reasons, the petition is allowed. The impugned communication is hereby quashed and set aside. The respondent Municipal Council is directed to register the death of Annie Fernandes as directed by the learned Magistrate, within a period of two weeks from today.

4. The petition is disposed of in the aforesaid terms.

C. V. BHADANG, J.

SMA