

14.11.2022  
Court No. 19  
Item No.14  
CP

WPA No. 21454 of 2022

Sri Goutam Bagchi  
Vs.  
The State of West Bengal & Ors.

Mr. Dwijadas Chakraborty  
Mr. Nabiul Islam  
Sk. Sujauddin

...for the petitioner.

Ms. Piyali Sengupta  
Mr. Ratul Das

....for the State.

Mr. Uday Narayan Betal

...for the respondent no. 7.

The petitioner has prayed for a mandamus upon the respondent no. 5 to withdraw and/or cancel the death certificate issued upon the death of one Gouri Shankar Bagchi. In the death certificate issued by the authority under the provisions of Section 12 read with Section 17 of the Rules of the Registration of Births and Deaths Act, 1969, the date of death has been mentioned as February 2, 1968. Such death certificate was issued on February 23, 2015.

The petitioner has relied on a certificate given by the Pradhan, Patikabari Gram Panchayat, dated June 8, 2018, which indicates that late Gouri Shankar Bagchi died on February 3, 1979. The said certificate is a handwritten certificate/statement

rather than a certificate in the prescribed form which is required to be issued under the Rules.

Mr. Betal, learned advocate for the respondent no. 7, denied the authenticity and the correctness of such declaration. According to him, the Pradhan was not empowered by law to issue such a statement.

Learned advocate for the State respondents filed certain documents and government notifications in order to show that as per page 332 of the training manual for Gram Panchayat Pradhans and Upa-pradhans, published by the Panchayat & Rural Development Department, Government of West Bengal in September 2010, the Gram Panchayat Pradhan has been designated as the Sub-Registrar for any birth and death within the jurisdiction of the concerned gram panchayat.

The Registration of Births and Deaths Act, 1969 read with the Rules provides a procedure by which a death certificate can be issued. This court was of the view that the concerned gram panchayat must indicate whether the statement/certificate at page 25 of the writ petition had been issued and if so, under which provision of law. The report filed by the Block Development Officer indicates that the certificate dated June 8, 2018 was available in the records. The erstwhile pradhan/signatory on being asked, submitted that a blank letter pad bearing his

signature had been misused for creation of the document. In any event the said certificate does not have any legal value insofar as the date of death of the deceased. The same has not been issued as per the prescribed form. The entry in the register indicates that the office of the Sub-Register entered the date of death of said late Gouri Shankar Bagchi as February 6, 1968.

The law provides a mechanism by which any entry in the records with regard to births and deaths can be either corrected or cancelled. The petitioner has not exhausted the said remedy.

The petitioner may approach the concerned authority in accordance with the Registration of Births and Deaths Act, 1969 read with the Rules. If such approach is made, the same shall be disposed of in accordance with law upon hearing the petitioner, the respondent no. 7 and all other heirs and legal representatives of the deceased within six weeks from receipt of the application. A reasoned order shall be passed and communicated to all. Whether the death certificate dated February 23, 2015 was issued as per procedure shall also be indicated as the law provides what steps shall precede issuance of the certificate in case there is a delay in recording such death.

This court has not expressed any opinion on the factual dispute with regard to the date of death.

The writ petition is disposed of.

There will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**